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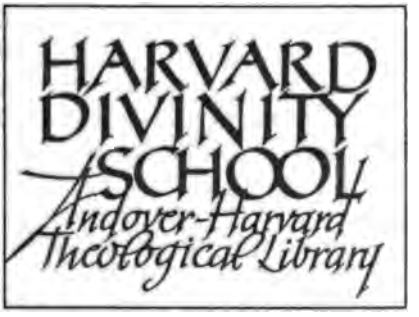
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THE RIGHT REV. JEREMY TAYLOR, D.D

LORD BISHOP OF DOWN, CONNOR, AND DROMORE:

WITH

A LIFE OF THE AUTHOR,

AND

A CRITICAL EXAMINATION OF HIS WRITINGS,

BY

REGINALD HEBER, A.M.

CANON OF ST. ASAPH, RECTOR OF HODNET, AND LATE FELLOW OF ALL SOULS' COLLEGE, OXFORD.

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RULE VI.

The imperate Acts or outward Expressions of the Virtue of one Commandment, must not contradict the elicit Acts of another.

1. By 'imperate acts' I mean such, which are commanded to be done by the interest of any virtue whatsoever, not proper to the virtue, but such as may minister to it, or signify it. Thus to deny the impure solicitations of an unchaste person, is a proper, an elicit act of the virtue of chastity; but to lie upon the ground,—to wear a hairen shirt,—to use disciplines,—to roll our naked body upon thorns,—to sleep in snows, are imperate acts; that is, such, which the virtue may choose and exercise for its own advantage and interest; but such, which are not necessary to any man in particular, nor to most men in the general: useful, indeed, in some cases, but not necessary in any. To eat and drink sparingly, and so as may minister to health and religion, is directly, that is, a proper and elicit act of temperance; but if a man spares to eat, that he may have wherewithal to pay his debts, it is an imperate act of justice; if to make himself healthful and strong to war, it is an act of fortitude. The terms being so explicated, the measures of the rule are these following particulars:—

2. (1.) The elicit acts of several virtues can never be contrary to each other: as an act of religion is never against an act of

charity; chastity is never against justice; temperance is never against piety. The effect of which proposition is this,—that one ought not to be pretended against another; and no piety to parents can engage us to be drunk for their sakes; no pretence of religion can make it lawful to neglect the care of our children: and to this purpose was that excellent precept of the son of Sirach; "Let not the reverence of any man cause thee to sin;" it is no good manners to comply with our superiors against our supreme, and there is a time and a place for every virtue: but no time nor place, no cause or opportunity of doing against any. It may so happen, that the external actions of several virtues cannot consist: as sometimes I cannot pay the gabel to the prince, and the offering to the priest; I cannot feed my child and the poor that begs; I cannot, at some times, tell truth, and yet preserve the life of my brother. Now when the two external elicit acts of virtue are inconsistent, the one must, of necessity, give place: the rules of which are to be given more properly in another place[a]: but that which, for the present, I am to say, is this,—that although the outward act cannot, at all times, be exercised, and so must, in certain cases, be omitted, —yet, in no case, can it be lawful for the interest of one virtue to do against another.

3. (2.) The imperate acts of one virtue may contradict the imperate or instrumental and ministering acts of another: —as fasting, when it is commanded by religion, may be against the advice of our physician, whom to observe it is sometimes a precept of prudence, sometimes of charity. Religion commands us sometimes to feast; and, at the same time, our charity bids us save our expense, that the poor may be fed the more plentifully. The reason of this is,— because all the imperate acts of virtue are external, and must depend upon something from without: which because it can unavoidably be hindered, it must needs also be, that it may inculpably be omitted. But then the rule is this; Because all imperate acts of virtue are nothing in themselves, but wholly in relation to the virtue,—that imperate act, which ministers to that virtue which is then to be preferred, must also be preferred. The reason is plain: the accessory must follow the nature of the principal: and therefore, if we must

[a] Lib. 3.

now prefer the virtue, we must also prefer the instrument. The case is this; Don Antonio Licente, of Portugal, according to the Portuguese and Spanish vanity, loved to see his wife painted; and one evening commanded her to appear with him so disguised at a mask: she having notice that a young gentleman, who was passionately in love with her, would be there, and knowing that it would inflame his passion if she were so adorned, inquires of her confessor, by what means she should restrain the folly of that inamorato, and receives this amongst other advices; that, at no hand, she should appear before him with any artificial handsomeness: if she obeys her husband's humour at that meeting, she does hurt to a soul, and gives fuel to an impure flame, which already is too big: if she does not obey him in that instance, her husband will lose the pleasure of his fancy. But because she finds there is no other evil will be consequent to her omission, but that her husband shall want a little fantastic pleasure; and the consequence of her obeying him would be, for aught she knew, that God might lose a soul,—she chose to do an act ministering to spiritual charity, and the chastity of her brother, rather than an act that could be instrumental to nothing but the airy pleasure of her husband; though otherwise she had been bound to signify her obedience to him by any thing that had been lawful.

4. But in this there is some variety, and ought to be some caution: for although the principal virtue is to be preferred not only in itself, or in its proper and elicit acts, but also in its imperate and instrumental; yet this is to be understood to be true, when the instruments are in equal order to their respective virtues, or when there is no considerable difference. For if the action in question ministering to the less principal virtue do very much promote it, and the other, which is instrumental to the more principal, do it but an inconsiderable advantage;—the ministry of the less principal is, in that case, to be preferred: the reason is, because, by this omission of an inconsiderable instrument, the present duty is not hindered; but the service of God is advantaged in the other; because it is able to effect something, that is considerable towards the service of God, which the other is not. The case is this; I knew a brave man, who, by a con-

spiracy of evil persons, was condemned to die. He having, of a long time, used to fast till the morning office was completed, because he found fasting to be practised by antiquity, and by holy persons in their more solemn offices, and thinking it might or did him some advantage in order to the bettering of his prayer, did think to do so in the morning before his execution. But then, on the other side, he considered, that if he fasted, he should suffer a great diminution of spirits, and possibly might be suspected of pusillanimity, if he did suffer a natural lipothymy; and therefore could not tell what he should do. He was sure that to acquit himself before God in his duty was much to be preferred before the other, of appearing brave and hardy before men; and therefore that his private prayers were more to be regarded than his public confidence; and therefore was choosing to fast: but then he reflected again on the instrumental actions, and considered that his abstinence from a little meat would bring but a very little and inconsiderable advantage to his prayers, but his eating would very much strengthen his heart, and do him a very considerable advantage that way, he chose this;—because the other could easily be supplied by the intenseness of his spirit, his zeal, and his present necessity, but this could not but by natural supplies and supportations of the strengths of the body.

5. But, in the like cases, prudence and the conduct of a good guide is the best security to him, that inquires with an honest heart and pure intention; and then the determination is best, and the conscience is safest, when both can be reconciled; but when they cannot, the former measures are to be observed.

6. (3.) Those actions which can only signify or serve the interest of virtue by way of collateral advantage and indirect ministry, must ever give place, when they hinder the proper acts of any virtue whatsoever. Fasting must never be used, when to fast is against charity; because charity is directly commanded, but fasting is relative to something else, and is not commanded for itself. Now in those things which are of a disparate nature, a principal is ever to be preferred before an instrument, and an act of duty before an act of prudence, and necessity before convenience.

7. (4.) But in things subordinate, that is, when the outward act is an elicit act of virtue, and truly subordinate to the internal, there can be no contradiction of one to the other; but the outward act and the inward must be both performed; that is, neither of them must be pretended in objection to the other; for they cannot hinder each other; but the outward can be hindered only by something from without, but the inward by nothing. So that in order to conscience, the rule is this; "He that does an inward and elicit act of virtue, will certainly, if it be in his power, do the outward elicit act:" that is, the hand will move at the command of the will, and the foot will go if it be commanded,—and if the soul be charitable, the hand will be apt to minister. For it is not well within, unless it be well without; that is, unless the virtue express itself in outward action, where it can. And on the other side; an outward elicit act of virtue can never go alone; unless it be the product of a good heart and of an inward elicit act, it is the imperate act of pride, or ambition, or a vicious fear, or covetousness, or something criminal; but neither the imperate nor the elicit act of any virtue whatsoever.

8. (5.) Though the words of art here used be not common, yet the practice of these rules in the questions of conscience will not be difficult, if we shall, but with some diligence, observe the difference of external actions, and be able to discern what outward actions are the elicit or proper, and which are the imperate and instrumental acts of virtue; because these being to give place to other acts by the events and constitution of their own nature, and the other never but when they are hindered from without, our duty will be easy, when we once understand of what nature the outward action is. The rule, therefore, for the direction of our conscience in this affair, is this;—"Those actions, which either are commanded by name and in particular, or by direct and proper consequence from the general, they are the elicit and proper actions of a virtue." Thus to give alms is a proper and elicit act of charity: to condemn the criminal is a proper act of justice: to speak well of all men behind their backs, so far as we can with truth, is an elicit act of equity. But whatever is of that nature that it can be done innocently, and yet not be an act of virtue properly, that only is instru-

mental to a virtue, and is an imperate action. Thus to invite rich men to a feast may be done prudently and without scruple; but he that does so and no more, shall have no reward in heaven for it: but yet to invite rich men to a banquet may minister to friendships or peace, or it may obtain relief to a poor oppressed brother; and then it may be a good instrument of that virtue, to which, by accident or the personal intention of the man (not the natural order or intention of the thing), it does minister. By the serious observation of this difference of acts we may be guided in many cases of conscience, and in the interpretation of some of the laws of our religion.

RULE VII.

When any Thing is forbidden by the Laws of Christ, all those Things also, by which we come to that Sin, are understood to be forbidden by the same Law.

1. In this, there is one great difference between positive and negative laws. When any thing is commanded or enjoined, to take or use any instrument to it is left to our choice, and is matter of prudence and not duty: as when we are commanded to mortify the lusts of the body: we are not commanded to lie upon the ground, or to masticate rhubarb, or to go barefoot, or to put on St. Francis's girdle upon the bare body; as we find these actions aptly instrumental to the duty, and fitted to the person, so we may use them: but if the fear of hell, or the hopes of heaven, can mortify us sufficiently to all the purposes of the Spirit,—or if he who is married, be not tempted,—or he who is unmarried, be by nature abstinent, or by disease and imperfection,—these instruments are out of use, as to these purposes. For here nothing is under command but the duty itself; and if, by any good instrument it be done, it is all one as to the law. But in negative precepts, the case is otherwise: for the crime is not only to be abstained from, but every instrument of it, every path that leads to it, whatsoever can begin or promote it: and the reason is, because all these things are of the same nature with the sin; and therefore although every thing

that is or may be good, is not commanded, yet every evil is forbidden. "One fly can spoil a pot of ointment." But this we are plainly taught by our blessed Saviour's sermon on the mount; where he expounded the precepts of the ancients, not only to signify the outward act, but the inward desire: and in this our blessed Master's law is much more perfect than the digest of Moses; for although there also God forbade concupiscence, yet it was only instanced in the matter of covetousness; and was not extended to the other instances of duty; but in Christ's law, 'non concupisces' is the 'apex juris;' it is the conservatory and the last duty of every commandment.

> Nam scelus intra se tacitum qui cogitat ullum,
> Facti crimen habet[b].

He that thinks a lustful thought, hath broken a commandment; and if the eye be full of adultery, or the mouth be impure, or the hand be unclean,—the whole man is polluted before God, and stands guilty of the breach of the main law. "Exercetur, atque aperitur opere nequitia, non incipit." The deed tells the heart, and opens the shop of crimes; but they begin in the heart, and end in the outward work.

2. But in this there is no difficulty: for God being lord of all our faculties, and the searcher of hearts, and the judge of our thoughts, he must be served by all; and he searches, that he may judge all,—and judges, that he may punish or reward all. But the rule is only thus to be limited; that in those sins, whose being criminal is wholly relative to persons with whom we converse,—every thought is not a sin, unless that thought also be relative. As he sins not that thinks a lie, if he resolves not to abuse any body with it,—and a man may love to please himself with false news, and put on a fantastic confidence and persuasion of the truth of what he would fain have to be true; though to his reason it seem improbable. In this there is some folly, but no malice: but to lie is a relative action; and if he have but a thought or purpose to abuse the credulity of any one, then that thought or purpose is a lie; that is, it is of the same nature with a lie; and, therefore, of the same condemnation. The case is the same in all things, which are forbidden only, because they

[b] Juv. 13. 209.

are uncharitable or unjust to my brother, but are permitted, when they are otherwise.

3. (2.) But the intention of the rule is more: for it means, that all the addresses and preparations to criminal and forbidden actions are also forbidden. Thus because Christ gave a law against fornication, he hath also forbidden us to tempt any one to it by words, or by wanton gestures, or lascivious dressings; and she fornicates, that paints her face with idle purposes.

4. (3.) It is also meant concerning temptations to a forbidden instance; for they also are forbidden in the prohibition of the crime: which is to be understood with these cautions:

5. (1.) If the temptation be in a natural and direct order to the sin, it is forbidden, where the sin is. Thus because lusts of the flesh are prohibited, it is also our duty, that we do 'not make provision for the flesh to fulfil the lusts of it.' Eating high and drinking deep are actions of uncleanness, as well as of intemperance: and in the same proportion also is every thing, that ministers directly to the lusts of the lower belly, though in a less degree; as lying soft, studying the palate, arts of pleasure and provocation, enticing gestures: with this caution;—

6. (2.) If the effect be observed in these less and lower instances, then they are directly criminal: for whatsoever did bring a sin and is still entertained knowingly and choosingly, is, at least by interpretation chosen, for the sin's sake: but first and before the observation, it may enter upon another account; which if it be criminal, to that these instances are to be reckoned, and not to that sin to which they minister unknowingly.

7. (3.) Every temptation is then certainly to be reckoned as a sin, when it is procured by our own act; whether the temptation ministers to the sin directly or accidentally: for if we can choose it, it can have no excuse: "tute hoc intristi, tibi omne exedendum est[c]:" and unless the man be surprised, his choosing of an instrument to sin withal, is not for the sake of the instrument, but for its relation: and this is true, although the usual effect does not follow the instrument. For there is sometimes a fantastic pleasure in the re-

[c] Terent. Phorm. act. ii. 1. 4. Schmieder, pag. 334.

remembrances of sin, in the approaches of it, in our addresses to it: and there are some men who dare not act the foul crime, who yet love to look upon its fair face; and they drive out sin as Abraham did Ishmael, with an unwilling willingness (God knows), and therefore give it bread and water abroad though no entertainment at home, and they look after it, and are pleased with the stories of it, and love to see the place of its acting:

> Hic locus, hæc eadem, sub qua requiescimus, arbor,
> Scit quibus ingemui curis, quibus ignibus arsi;

and they roll it in their minds: now they that go but thus far, and love to tempt themselves by walking upon the brink of the river, and delight themselves in viewing the instrument of their sin, though they use it no further, they have given demonstration of their love of sin when they make so much of its proxy.

8. But there are others, who have great experience of the vanity of all sin, and the emptiness and dissatisfaction that is in its fruition,—and know as soon as ever they have enjoyed it, it is gone, and that there is more pleasure in the expectation than in the possession;—and therefore they had rather go towards it than arrive thither; and love the temptation better than the sin: these men sin with an excellent philosophy and wittiness of sinning; they love to woo always and not to enjoy, ever to be hungry and sitting down to dinner, but are afraid to have their desires filled: but if we consider what the secret of it is, and that there is in these men an immense love to sin, and a perfect adhesion to the pleasure of it, and that they refuse to enter lest they should quickly pass through,—and they are unwilling to taste it, lest they should eat no more,—and would not enjoy, because they will not be weary of it; and will deny any thing to themselves, even that, which they most love, lest for a while they should loath their beloved sin;—we shall see reason enough to affirm these men to be the greatest breakers of the laws of Jesus Christ; though they only tempt themselves and handle the instruments of sin, and although these instruments serve nothing but the temptation, and the temptation does not serve the sin, whither in its own nature it is designed.

9. (4.) If the temptation be involuntary, then it is not imputed; and yet this is to be understood with this provision; that it be neither chosen directly, nor by interpretation; that is, that it be not entered into by carelessness, or confidence, or choice. If it be by choice, then it is directly against that law of Christ, which forbids that sin whither the temptation leads; but if it enter by carelessness or confidence, it belongs not to this rule; for although every temptation is against the laws of Christ, yet they are not under the same law, by which the effect is prohibited,—but unlawful, because they are against Christian prudence and Christian charity.

RULE VIII.

The suppositive Propositions with the supervening Advices of our blessed Saviour, are always equivalent to Matter of Duty, and are, by Interpretation, a Commandment.

1. This rule is intended as an explication of the precepts of prayer, alms, and fasting: all which our blessed Saviour, in his sermon upon the mount, expressed by way of supposition; which way of expression although it be not a positive and legal expression of a commandment, yet it either supposes a preceding law, or a confirmed practice; or, at least, that those to whom such words are directed, are willing and loving and obedient people, understanding the intimations and secret significations of the divine pleasure. "When ye give alms, do not blow a trumpet," said our blessed Saviour: "When ye pray, stand not in the corners of the streets; when you fast, do not disfigure your faces." Now concerning prayer and alms there is no difficulty, because our blessed Lord and his apostles have often repeated the will of God in express commandments concerning them; but because of fasting he hath said much less, and nothing at all but these suppositive words, and a prophecy, that his disciples should fast in the days of the bridegroom's absence, and a declaration of the blessed effects of fasting; this hath a proper inquiry and a special difficulty, whether or no these words have the force of a commandment.

2. Concerning which we may take an estimate, by those other expressions of our lawgiver, concerning alms; which we without further scrutiny know to be commandments, because, in other places, they are positively expressed: and therefore if we can find it so concerning fasting, this inquiry will be at an end. Now concerning this I will not only observe, that the three great heads and representatives of the law, the prophets, and the gospel,—Christ, Moses, and Elias, who were concentrated and enwrapped in one glory upon Mount Tabor, were an equal example of fasting,—which, in their own persons, by a miracle, was consigned to be an example and an exhortation to fasting to all ages of religion; and each of them, fasting forty days upon great occasions, told to them who have ears to hear, what their duty is in all the great accidents of their life; but that which is very material to the present inquiry, is, that this supposition of our blessed Lord, "When ye fast," was spoken to a people who made it a great part of their religion to fast, who placed some portions of holiness in it, who had received the influence of their greatest, their best, their most imitable examples for religious fasting; and the impression of many commandments, not only relative to themselves, as bound by such a law, but as being under the conduct of religion in general. Such was the precept of the prophet Joel; "Thus saith the Lord, Turn ye even to me, with all your heart, with fasting, and with weeping, and with mourning[d]." Now whatever the prophets said, that related to religion abstractedly, or morally, all that is evangelical (as I proved[e] formerly in this book): besides, there was a universal solemn practice of this exercise, under Joshua, at Ai; under the Judges, at Gibeah; under Samuel, at Mizpah; under David, at Hebron: fasts frequently proclaimed, frequently instituted; at the preaching of Jeremy and David, of Joel and Zachary; before the captivity, under it, and after it: in the days of sorrow and in the days of danger; in their religion solemn and unsolemn; after they had sinned and when they were punished; at Jerusalem among the Jews, and at Nineveh amongst the Gentiles: now because it is certain, that all this could not be confined to the special religion of the Jews, but was an expression and apt signification and instrument

[d] Joel, ii. 12. [e] Chap. 2. rule 5.

of a natural religion, our blessed Saviour needed not renew this and efform it over again into the same shape, but had reason to suppose the world would proceed in an instance, whose nature could not receive a new reason and consequent change in the whole.

3. This heap of considerations relates to that state of things, in which our blessed Saviour found this religious exercise at his coming. Now if we consider what our blessed Saviour did to it in the gospel, we shall perceive he intended to leave it no less than he found it; for, (1.) He liked it and approved it, he allowed a time to it, a portion of that by which God will be served; and he that gave us time only to serve him, and in that to serve ourselves, would not allow any time to that, by which he was no way served. (2.) We cannot tell why Christ should presuppose that a thing was to be done, which God did not require to be done: such things Christ used to reprove, not to recommend,—to destroy, not to adorn by the superfetation of a new commandment. (3.) These words he speaks to his disciples in the promulgation of his own doctrine, in his sermon upon the mount, which is the great institution and sanction of the evangelical doctrine,—and therefore left it recommended and bound upon them by a new ligature, even by an adoption into the everlasting covenant. (4.) He represents it equally with those other of prayer and alms, which, in this excellent digest of laws, he no otherwise recommends, but as supposing men sufficiently engaged to the practice of these duties: "When ye pray, enter into your chamber," and "When ye pray, say, Our Father," and "When ye fast," be sincere and humble. (5.) He that presupposes, does also establish; because then one part of the duty is a postulate, and a ground for the superstructure of another; and is sufficiently declared by its parallels in the usual style of Scripture. "My son, when thou servest the Lord, prepare thy soul for temptation:" so the son of Sirach:—and again: "When thou hearest, forgive[f];" and again: "When thou art afflicted, call upon him:" which forms of expression suppose a perfect persuasion and accepted practice of the duty; and is more than a conditional hypothetic; 'si jejunatis' hath in it more contingency, but 'cum jejunatis' is an expression of

[f] 1 Kings, viii. 30.

confidence, and is gone beyond a doubt. (6.) That exercise which Christ orders and disposes, which he reforms and purges from all evil superinduced appendage, is certainly dressed for the temple and for the service of God; now this of fasting Christ reforms from its being abused, as he did prayer and alms; and therefore left it in the first intention of God, and of a natural religion, to be a service of God, like that of bowing the head, or going to worship in the houses of prayer. (7.) To this duty he promises a reward: our heavenly Father that seeth thy fasting in secret shall reward thee openly: that is, its being private shall not hinder it from being rewarded; for God sees it, and likes it, and loves it, and will reward it.

4. Now for confirmation of all this, and that this was to this purpose so understood by the disciples and followers of our Lord: St. Paul was "in fastings often[g];" and this was a characteristic note of the ministers of the gospel, "in all things approving ourselves as the ministers of God, in much patience—in watchings, in fastings[h]:" and when Paul and Barnabas were ordained apostles of the uncircumcision, they "fasted[i] and prayed," and laid their hands on them, and so sent them away; and esteemed this duty so sacred, that St. Paul permitted married persons, σχολάζειν, 'to appoint vacant times' from their endearments, that they may "give themselves to fasting[k] and prayer:" and the primitive Christians were generally such ascetics in this instance of fasting, that the ecclesiastical story is full of strange narratives of their prodigious fastings.

5. Lastly, fasting is an act of many virtues; it is an elicit and proper act of temperance, and of repentance, and of humiliation, and of mortification of the flesh, with its affections and lusts; it is an imperate and instrumental act ministering to prayer, and is called a service of God: so the good old prophetess[l] served God day and night in fasting and prayer; and that which serves God, and ministers so much to religion, and exercises so many graces, and was practised by the faithful in both Testaments, and was part of the religion of both Jews and Gentiles, and was the great solemnity and publication of repentance, and part of a natural

[g] 2 Cor. xi. 27. [h] 2 Cor. vi. 5. [i] Acts, xiii. 3, 4.
[k] 1 Cor. vii. 5. [l] Luke, ii.

religion, and an endearment of the divine mercy and pity; that which was always accounted an instrument of impetration or a prevailing prayer; which Christ recommended, and presupposed, and adorned with a cautionary precept, and taught the manner of its observation, and to which he made promises, and told the world that his heavenly Father will reward it; certainly this can be no less than a duty of the evangelical or Christian religion.

6. But, although it be a duty, yet it is of a nature and obligation different from other instances. When it relates to repentance, it is just a duty, as redeeming captives is commanded under the precept of mercy: that is, it is the specification or positive exercise and act of an affirmative duty: it is a duty in itself, that is, an act whereby God can be served; but it becomes obligatory to the man by other measures, by accidental necessities and personal capacities, in time and place, by public authority and private resolution. Not that a man cannot be said to be a true penitent unless he be a faster; but that fasting is a proper, apt, natural, usual, approved expression, and an exercise of repentance: it is more fitted to the capacities of men, and usages of religion, than any other outward act; it hath some natural and many collateral advantages more than other significations of it; and it is like bowing the head or knee in prayer, and is to repentance the same outwardly as sorrow is inwardly; and it is properly the penance or repentance of the body, which because it hath sinned must also be afflicted, according to that of St. James, "Be afflicted, and mourn, and weep: let your laughter be turned to mourning, and your joy to heaviness: humble yourselves in the sight of the Lord:" that is, 'repent ye of your sins:' for all these expressions signify but this one duty, and this great exercise and signification of it are so much a duty in the general, that it cannot be omitted without good reason,—nor then neither unless it be supplied by something else, in its just time and circumstances.

7. In order to other ends fasting is to be chosen and preferred before instruments less apt, less useful, less religious, that is, before the imperate and ministering acts of any kind whatsoever; for it is the best in many respects, and remains such, unless it be altered by the inconveniences or healthlessness of the person.

RULE IX.

The Institution of a Rite or Sacrament by our blessed Saviour, is a direct Law, and passes a proper Obligation in its whole Integrity.

1. THIS rule can relate but to one instance, that of the holy sacrament of Christ's body and blood; for although Christ did institute two sacraments, yet that of baptism was under the form of an express commandment, and therefore for its observation needs not the auxiliaries of this rule. But, in the other sacrament, the institution was by actions, and intimations of duty, and relative precepts, and suppositions of action; as 'quoties feceritis,' and the like. Now whether this do amount to a commandment or no, is the inquiry; and though the question about the half-communion be otherwise determinable, yet by no instrument so certain and immediate as this.

2. In order therefore to the rule of conscience in this instance I consider, that an institution of a thing, or state of life by God, and by his Christ, is to be distinguished from the manner of that thing so instituted. When a thing is instituted by God, it does not equal a universal commandment; but obtains the force of a precept according to the subject-matter and to its appendant relations. Thus when God instituted marriage, he did not, by that institution, oblige every single person to marry: for some were eunuchs from their mothers' wombs, and some were made eunuchs by men; and some made themselves eunuchs for religious and severe ends, or advantages of retirement and an untroubled life. But 'by this institution,' say the doctors of the Jews, 'every man was at first obliged;' and so they are still, if they have natural needs or natural temptations; but because the institution was relative to the public necessities of mankind, and the personal needs of man, therefore it was not a universal or unlimited commandment; but only so far as it did minister to the necessary end, so far it was a necessary commandment. It was not instituted for eunuchs; but for whom it was instituted, to them it was a remedy against sin, and the support of the world, and the original of families, and the seminary of the church, and the endearment of friendships,

and the parent of societies: and until the necessities of the world were abated, and the needs of single persons were diverted, or broken in pieces, by the discipline of a new institution,—it was esteemed infamous, and it was punishable, not to marry.

3. But then if we consider the manner of this thing so instituted, it is certainly a perfect, unalterable, and universal commandment. For although every man in every circumstance be not, by virtue of the institution, obliged to marry; yet if he does marry, by the institution he is tied up strictly, that at no hand he must prevaricate the measures and limits of the institution. He that marries, must marry by that rule and by no other. He must marry one woman only while she is alive: he must leave father and mother and adhere to her; he must treat her with charity and honour; he must use her by the limits of nature and sobriety; he must make her the mother of his family; he must make her serve no desire but what is natural; and so in every thing is he limited to the first institution.

4. The reason is, because a divine institution is the whole cause, and the entire beginning, and the only warranty and legitimation, of the state or of the action: and therefore whatsoever is otherwise than the institution, is not from God, but from ourselves: so that although the institution does not oblige us in all cases to do the thing at all; yet in all cases it obliges us to do it in the manner it is appointed: and in this sense the word is used in good authors. "Nam is, quamvis nutricibus triennium dederit, tamen ab illis quoque jam informandam quam optimis institutis mentem infantium judicat," said Quintilian[m]; "The understanding even of infants is, from the very beginning, to be formed with the best institutions:" that is, with the best laws and precepts of manners. "Institutiones sunt præceptiones, quibus instituuntur et docentur homines," said Laurentius Valla: "The precepts by which men are taught what to do, are called institutions:"—so Quintilian inscribed his books, 'de Institutione Oratoria,' and Lactantius wrote 'Institutions;' that is, 'commentaries' on the precepts and laws of Christianity. But it hath in it this peculiarity of signification, that the word 'institution' does signify properly rules and precepts of manners; properly the

[m] Lib. i. 1. 16. Spalding, vol. 1 pag. 27.

measures of practice, or rules teaching us what we are obliged to do. So that institution does not directly signify a commandment, but it supposes the persons obliged, only it superadds the manner and measures of obedience. "Cum ad literas non pertineat ætas, quæ ad mores jam pertinet," &c. says Quintilian[n]; "since *that age is not capable of letters*, but is capable of manners," they are to be efformed by the best and noblest institutions.

5. And thus it is in the matter of the sacrament, as it is in the matter of marriage. All men are not always obliged to receive the sacrament; for the institution of it being in order to certain ends, and in the recipients certain capacities and conditions required by way of disposition, there can be but a relative, and therefore a limited commandment of its reception: but to them who do receive it, the institution is a perfect indispensable commandment for the manner in all the essential parts, that is, in all which were intended in the institution. Now whence I argue,

Whatsoever is a part of Christ's institution of the sacrament, is for ever obligatory to all that receive it:

But the sacrament in both kinds is a part of the institution of the sacrament: therefore,

It must for ever oblige all that communicate or receive it.

The first proposition relies upon the nature of divine institutions, which giving all the authority and warranty to the whole action, all its moral being and legitimation, must be the measure of all the natural being, or else it is not of God, but of man. "Indignum dicit esse Domino, qui aliter mysterium celebrat, quam ab eo traditum est: non enim potest devotus esse, qui aliter præsumit quam datum est ab auctore," saith St. Ambrose[o]; 'St. Paul saith, He is unworthy of the Lord who celebrates the mystery otherwise than it was delivered by him: he cannot be devout who presumes otherwise than it was given by the author:' and to this purpose are those severe words of the apostle; "Si quis evangelizaverit præter quod accepistis," "If any man preach any other gospel than what he have received, let him be anathema[p];" that is, from

[n] *Not capable*] Bp. Taylor, quoting, perhaps, from memory, has misunderstood Quintilian, who expressly affirms, that 'that age is capable of letters:' "Cur autem non pertineat ad literas ætas, quæ ad mores jam pertinet?" See Spalding's Quintilian, vol. 1. p. 27.—(J. R. P.)

[o] In 1 Cor. xi. [p] Gal. i.

Christ we have received it; and so as we received it, so we deliver it; and so it must descend upon you without the superfetation of any new doctrine.

6. And indeed how is it possible to pretend a tradition from Christ by the hands of his apostles, and the ministry of the church, if we celebrate it otherwise than Christ delivered it? "Religioni nostræ congruit, et timori, et ipsi loco, et officio sacerdotii nostri custodire traditionis Dominicæ veritatem. Et quod prius videtur apud quosdam erratum, Domino monente corrigere, ut cum in claritate sua et majestate cœlesti venire cœperit, inveniat nos tenere quod monuit, observare quod docuit, facere quod fecit;" they are the excellent words of St. Cyprian [q], and perfectly conclusive in this article. For there were some, who, out of an impertinent pretension of sobriety, would not use wine, but water, in the sacrament; the instrument by which St. Cyprian confutes their folly, is a recourse to the institution. See, how did Christ deliver it: "Invenimur non observari à nobis quod mandatum est, nisi eadem quæ Dominus fecit, nos quoque faciamus:" "Unless we do what Christ did, we do not observe what he commanded;"—plainly implying, that the institution itself was a commandment: "we must hold what he admonished, we must observe what he taught, we must do what he did." Not every thing done at the time of the institution, but, 'every thing of it.' "For," says he, "Christ did institute it after supper, but we in the morning." But every thing by which he did signify what he did exhibit, and exhibit what he did promise, every such thing was a part of the institution, and cannot be changed." And therefore St. Paul, when he instructs the Corinthians in the mystery of the holy eucharist, uses no demonstration of the rites but this: "I have received this of the Lord:" and "This I have delivered unto you. Other things I will set in order when I come [r];" that is, 'Whatsoever I did not receive from the Lord Jesus; whatsoever was not of his institution, I have power to dispose of; but not of any thing which he appointed.'

7. (1.) Now there is no peradventure, but the apostles understood this institution to be a commandment, Παρέδωκαν οὕτως ἐντετάλθαι αὐτοῖς τὸν Ιησοῦν· said Justin Martyr [s], speaking of the distribution of the bread and wine, ἑκάστῳ τῶν παρόντων,

[q] Ad Cæcil. lib. 2. ep. 3. [r] 1 Cor. xi. 23, 24. 34. [s] Apol. 2.

" to every one that was present," he says that " the apostles did deliver that Jesus so commanded them." For what commandment have we to consecrate in bread and wine? What precept is there, that the consecration should be by a priest? Nothing but the institution. For if it be said, that Christ added the preceptive words of " Hoc facite," ' This do in remembrance of me,'—I reply, He did so: but " Hoc facite" is no commandment of itself, but when it is joined with, " in mei commemorationem," " in remembrance of me;"—that is, when ye remember me, then do thus: so St Paul [1] more expressly, " This do, as often as you drink it, in remembrance of me." Therefore " Hoc facite" will be but ill expounded to be a commandment for the priests' consecration, unless it borrow all its force from the whole institution: for it plainly says only this; ' When ye remember me, then do this which ye see me do.' But " Hoc facite" does not signify any particular commandment, but that which is relative to the whole action; and all the discourses of mankind can never extract any other signification.

8. But, (2.) The apostles received an express commandment; " Drink ye all of this."—If therefore Christ instituted the sacrament for the whole church, and that they were the representatives of the whole body of Christ,—then all the whole church, when they communicate, are bound by the commandment to receive the chalice. But if they did not represent the whole church, then where shall we find a warranty that the people may receive it all? For if they received only in the capacity of clergymen, then the institution extends no further; and it is as much sacrilege for the people to eat and drink the symbols as to offer at the consecration. But if they received in the capacity of Christians only, then they received the commandment of drinking in the chalice, for themselves and for all Christians.

9. And indeed the apostles were not then priests.—' True,' say they of the church of Rome, ' they were not;' but James Payva, a Portuguese, in the council of Trent, talked merrily, and said that 'the apostles as laics received the bread; but then when Christ said, " Hoc facite," " This do," he made them priests; and then gave them the chalice as representatives of the clergy, not of the people.' But as

[1] 1 Cor. xi. 25.

merry a fancy as this seemed then, it was found to be the best shift they had; and therefore, upon better advice, it was followed by Canasius, Suarez, Bellarmine, and divers others. But if this be stood upon, besides that it must be crushed to nothing by the preceding argument, the pretence itself crosses their own devices. For if it be said, that the apostles were made priests by "Hoc facite," spoken before the institution of the chalice,—then "Hoc facite" does not signify, "Offerte sacrificium," and consequently cannot make them priests, that is (with them), 'sacrificers;' for, by their own doctrine, to offer both kinds is necessary to its being a sacrifice. Since therefore the first "Hoc facite" (which indeed is the only one mentioned by the evangelists) can but relate to the consecrating of the bread,—as the second (mentioned by St. Paul) does to the consecrating of the chalice,—either they are priests without a power of sacrifice; or the sacrifice is complete without the chalice; or else they were not then made priests when Christ had first said, "Hoc facite;" and if they were by the second, besides that a reason cannot be fancied, why the same words should, and should not, effect so differing changes, without difference in the voice, or in the action, or in the mystery,—besides this, I say, it is plain that Christ reached the cup to them, commanding them all to drink before he made them priests, that is, they received the chalice as representatives of the people: for being laics at least till all that ceremony was done, they did represent the people; and consequently as such, received a commandment to drink. Let them choose by what part they will be reproved. Every one of these overthrows their new doctrine, and all of them cannot be escaped. But let it be considered, whether it be likely that Christ should, at one time, institute two sacraments (for they pretend ordination to be as very a sacrament as the Lord's supper) of so different natures, and yet speak nothing of the use or the reason, the benefit or the necessity, of one of them: nor tell them that he did so, nor explicate the mystery, nor distinguish the rite, or the words, but leave it to be supposed or conjectured by the most imperfect and improbable construction in the world. But suppose it; yet at least it must be confessed that the words, which Christ used, and the same ritual, must, in the apostles' ministry, be able to effect the same grace: and if so, then

a priest hath power to ordain priests ; for he hath power to say, " Hoc facite," in all the same meanings which Christ had, when he used them: and if this be not accepted, yet at least a bishop may ordain all the congregations' priests, if he please,—by saying of one mass; which are pretty fancies and rare propositions in our divinity.

10. To which I add this consideration, that if our blessed Lord did, by those words of " Hoc facite," make his disciples priests, then they were priests before the Lord himself; for although he was designed for ever, yet he was consecrated on the cross, there he entered upon his priestly office; but officiates in that office not on earth but in heaven ; " for if he were on earth, he should not be a priest," saith St. Paul[u]; therefore, being consecrate on the cross, he ascended into heaven to be there " our priest for ever, there making intercession for us." Now it were strange, if the apostles should be declared priests before the consecration, or first sacerdotal action, of their Lord : or that they should be priests without the power of the keys, without the commission to baptize in the name of the Father, Son, and Holy Ghost: for these were given afterward. But this device is so very a dream, so groundless and airy a phantasm, so weakly laid, and employed to such trifling purposes, that it needs no further an inquiry into it ;—it was raised to serve the end of this question, to answer an objection, and pretends no strength of its own, neither can it weaken that which hath ; and that it is indeed only pretended for a shift, and intended to operate no further, appears in this manifestly; because, if the apostles did drink of the chalice in the capacity of being priests, then it ought to be followed, at least so far ; and all the priests that are present, ought to receive the chalice,—which because they do not in the church of Rome, it is apparent they prevaricate the institution ; and that they may exclude the laity from the cup, they use their clergy as bad, when themselves do not officiate.

11. (3.) This trifling pretence being removed, it remains that the words of institution, " Drink ye all of this," be also the words of a commandment; and although they were spoken to the apostles only, as being only present, yet the precept must equally concern all Christians and disciples of Christ.

[u] Heb. viii. 4.

Just like those of "Watch and pray, lest ye fall into temptation [x];" and "Unless ye be converted and become as little children, ye shall not enter into the kingdom of God [y]:" which were spoken only in the presence of the apostles: but as these precepts and moral rules concern all Christians; so do the words of institution of the holy sacrament and commandment of "Drink ye all of this." For, "oportet cœnam Dominicam esse communem, quia ille omnibus discipulis suis, qui aderant, æqualiter tradidit sacramenta," said St. Jerome [z]: "the Lord's supper is common to all, and so ought to be; because our Lord did equally deliver it to all that were present:" and upon this very account Durandus affirms, "In primitiva ecclesia, singulis diebus, omnes qui celebrationi missarum intererant, communicare solebant, eo quod apostoli omnes de calice biberunt, Domino dicente, 'Bibite ex eo omnes:'" "In the primitive church all that were present, did, every day, receive, because the apostles did all drink of the chalice, and the Lord said, 'Drink ye all of this [a].'"

12. And this appears, beyond all contradiction, to have been so intended. So St. Ignatius [b]: "There is one bread broken to all, καὶ ἓν ποτήριον τοῖς ὅλοις διανεμηθὲν, and one chalice distributed to all;"—and "there is no difference in this between the priest and the people," said St. Chrysostom [c]; and it is evident that St. Paul gives the same commandment of drinking the chalice, as of eating the bread; six times distinctly mentioning both the symbols, and directing the rule and the precepts of eating and drinking "to all that are sanctified in Christ Jesus [d]," even to all who are to examine themselves; for "let a man examine himself, and so let him eat of that bread and drink of that cup [e]:" and that it was so the custom of the church, and their doctrine, that all are to receive the chalice, that there was no scruple made by the church concerning it,—we are fairly induced to a belief, by the addition made to the Greek text of 1 Cor. x. 17, by the vulgar Latin; for whereas it is in the Greek "We all partake of the same bread," the vulgar Latin adds, "et de uno calice," "and of the same cup."—This I the rather note, because the

[x] Matt. xxvi. 41. [y] Matt. xviii. 3. [z] In 1 Cor. xi.
[a] Ration. lib. 4. c. 1. [b] Ep. ad Philad.
[c] Sup. 1 Cor. xi. et sup. 2 Cor. hom. 18. [d] 1 Cor. i. 1, 2. [e] 1 Cor. xi.

Jesuits of Cologne did use this for an argument of the half-communion; 'because, when St. Paul had spoken of the consecration, he mentions breaking bread, and drinking the cup; but when he speaks of sumption or participation, he only mentions the bread:' now supposing that, yet that defect is supplied by the vulgar Latin, the author of which knowing the universal custom of the church and the doctrine of it, supplied that out of the sentence of the church, which is not in the Greek text. Though if it had not been, yet the argument would have been just nothing, as being a conclusion drawn from a particular negative in one place; and against his custom in other places, and besides the institution.

13. For the doctrine and practice of the church are so notorious in this article, that, in the Greek church, there was never any variety in it; and to this day it is used, as it was in the beginning, and in all the intermedial ages: and in the Latin church for a thousand years it was not altered; nay, to this day the church of Rome sings in the hymn upon Corpus Christi day,

> Dedit fragilibus corporis ferculum,
> Dedit et tristibus salutis poculum,
> Dicens, 'Accipite quod trado vasculum:
> Omnes ex eo bibite.'

"He gave his body to be the food of the weak, and the cup of salvation to the sorrowful, saying, 'Take this vessel that I reach unto you, Drink ye all of this.'" Indeed it was often attempted to be changed upon the interest of divers heresies and superstitious fancies, and rare emergencies. For,

14. (1.) It was attempted to be omitted in the time of St. Cyprian, when some impertinent people would have water only; but not the chalice of the Lord's institution in the fruit of the vine; but these men's folly went not far, for being confuted and reproved by St. Cyprian[f] in a letter to his brother Cæcilius, I find no mention of them afterward.

15. (2.) It was attempted to be changed upon occasion of the Eremites, who coming but seldom to church, could but seldom receive the chalice, but desiring more frequently to communicate, they carried the consecrated bread with them into their cells; and, when they had a mind to it, in that imperfect manner did imitate the Lord's supper. That

[f] Lib. 2. ep. 3.

they did so is certain, that they had no warrant for so doing is as certain; and therefore their doing so can be no warrant to us to do as they did,—much less ought it to be pretended in justification of the denying the chalice to the whole laity, when they desire it and may have it. However, this unwarrantable custom of the Eremites was taken away by the first council of Toledo in the year 390, and afterward again forbidden in the year 500, by the fathers met in council at Cæsar Augusta. The words of the council of Toledo[g] are these; "Si quis autem acceptam à sacerdote eucharistiam non sumpserit, velut sacrilegus propellatur:" but this is more fully explicated in that of Cæsar Augusta; "Eucharistiæ gratiam si quis probatur acceptam non consumpsisse in ecclesia, anathema sit in perpetuum:" so that under the pain of a perpetual curse, and under the crime of sacrilege, they were commanded to spend the eucharistical symbols in the church; and this took from them all pretence of the necessity in some case of not receiving the chalice.

16. (3.) In the time of Pope Leo I. the Manichees, who abstained from wine as an abomination, would yet thrust themselves into the societies of the faithful, and pretend to be right believers; but St. Leo[h] discovered them by their not receiving the chalice in the holy eucharist; and whereas they would have received in one kind only, he calls it sacrilege; and reproves them with the words of St. Paul[i]; "Mark them which cause divisions amongst you, and offences contrary to the doctrine which ye have received." This was about the year 449.

17. (4.) Awhile after, about the year 490, some had gotten some superstitious fancy by the end; and, out of reverence to the holy sacrament, or some other device of their own, they thought it fit to abstain from the consecrated chalice: but Pope Gelasius made short work with them; he condemned their superstition, and gave sentence[k], "Aut integra sacramenta percipiant, aut ab integris arceantur," 'Either all or none:' drive them from the holy bread, if they refuse the sacrament of the Lord's blood.

18. (5.) The church had sometime, in extraordinary cases, as in communicating infants or dying people, dipped the

[g] Can. 14.
[h] Serm. 4. quadragesim.
[i] Rom. xvi. 17.
[k] Can. Comper. de Consecrat. dist. 2.

holy bread into the chalice, and so ministered the sacrament: upon occasion of which, some fell in love with the trick, and would have had it so in ordinary ministrations: we find it mentioned in the history of Serapion in Eusebius, and in St. Cyprian 'de Lapsis,' and in Prosper[l]. But against this breach Pope Julius opposed himself and stood in the gap, declaring it to be against the divine order, and apostolical institutions, and contrary to the doctrine of the gospel and of the apostles and the custom of the church; and his words[m] are remarkable to show from whence this article is to be adjusted and determined: "Non difficile hoc ab ipso fonte veritatis probatur, in qua ordinata ipsa sacramentorum mysteria processerunt;" "The very ordination or institution of the sacrament is the fountain from whence we are to derive the truth in this inquiry." But when this superstition was again revived about the year 580, the now-mentioned decree of Pope Julius was repeated in the third council of Braccara, and all set right again according to the perpetual custom of the church, and the institution of our blessed Lord, and their pretence (which was lest they should spill any thing of the holy chalice) laid aside as trifling and superstitious.

19. (6.) And yet after all these motions made by heretics and superstitious persons, and so many cautions, suppressions, and decrees, against them; about the year 920, the order of Cluniac monks did communicate with the bread dipped in the chalice, as Cassander[n] reports: and about the year 1120, it was permitted in some churches so to do: for by this time the world was so rude and ignorant, that they knew little of the mysteries of religion, and cared less; so that, for the danger of effusion of the holy wine, they in some places chose that expedient: which although it was upon great reason condemned by Pope Julius and the council of Braccara, yet it is a great argument that they still believed it necessary to communicate under both symbols.

20. (7.) But about the time that the schoolmen began to rule the chair, this danger of spilling the chalice wrought so much in their wise heads, that they began, about the year

[l] De Promiss. c. 6. et 26. q. 6. c. 15. in Decr.
[m] Ep. ad Episc. Ægypt. de Consecrat. dist. 2. can. Cùm omne.
[n] Lib. 2. c. 35.

1250, in some churches, to leave out all use of the chalice, excepting to the priests, and some great men who would be careful not to spill. This was but in 'some churches,' said Aquinas[o]; and it was permitted to all the priests present, "de quibus præsumitur quod magis sint cauti:" and to some grandees of the people too for the same reason, as we find in Richard Middleton, Innocent IV. and Petrus de Tarantasia.

21. (8) But by little and little the abuse went further, and grew confirmed, and miracles pretended and invented, as Alexander of Ales reports, to stop the outcries of certain religious, who were extremely troubled at the loss of the chalice: and now at last it became the general custom of the western churches; and it grew scandalous to desire it; and it was established into a doctrine in the council of Constance, and the institution of Christ and the custom of the primitive church were openly defied, taken notice of, and so laid aside, and anathema pronounced on them that should insist upon their right, or deny whole Christ to be under each kind, in the council of Trent; and so it abides at this day.

22. The question being now reduced to this short issue;—'whether under each kind whole Christ be received;'—it is not unworthy a short inquiry, concerning the truth, and concerning the consequence of it.

23. (1.) For the truth.—I consider that the effect of external rituals and ceremonials cannot be disputed philosophically; as we inquire into the portions of effect, which every herb hath in an infusion; but we are to take and use them in the simplicity of their institution; leaving them under that secrecy of their own mysteriousness, in which they were left in their first appointment and publication. The Apostle explicating the mysteries of our religion, saith, that "Christ was delivered" (meaning unto death) "for our sins, and was raised again for our justification[p];" and yet that "we are justified by his blood[q]." Upon these accounts we can say, that, by Christ's death and by his resurrection, we are justified,—and therefore we are to be partakers of both; but because we are 'justified by faith in his blood,' it will at no hand follow, we may let alone our faith,

[o] 3. part. sum. q. 80. art. 12. 4. lib. Sent. dist. 11. art. 2. q. 1.
[p] Rom. iv. 25. [q] Rom. v. 9.

or neglect to procure our part in his resurrection. So it is in the symbols eucharistical: supposing it had been said of the bread, 'This is Christ,' or, 'This is the death of Christ,' and the same said of the chalice; yet one alone is not sufficient to be received, when both are instituted: for as all the mysteries of our redemption are effective to our pardon and salvation; so are both the symbols of the eucharist to our reception of Christ; and baptism or absolution may better be pretended to the exclusion of the whole eucharist, than the sufficiency of bread to the exclusion of the chalice; for remission of sins is perfectly the grace of baptism; and those sins return not, but in the case of apostasy: but what is the effect of bread alone, is no where told; but that it is the commemoration or remembrance of the broken body of Christ, and the communication of that body: but then the chalice is also the remembrance of Christ's blood poured forth, and the exhibition of that which is for the remission of sins: and how these two do work that in us which we hope for, we know not, but that they work as mysteries and sacraments do work, but not as herbs, or natural agents, that we may believe.

24. (2.) I consider, that, when Christ appointed to the two symbols two distinct significations, and that we believe that the sacraments exhibit to worthy communicants what they represent to all,—it must be certain that all Christ, that is, that all the benefits of Christ, are not conveyed by each, which are conveyed by both,—because, as they signify, so they exhibit; but they do not each signify what both together do. The breaking of the body does not signify the effusion of the blood; neither does the shedding of the blood signify the breaking of the body: and to think that the reduplication of the symbols is superfluous, is to charge Christ with impertinency; and if it be not superfluous, then there is something of real advantage by both, that is not in each. I will not venture to assign to each their portion of effect: for what they have, they have not naturally, but by divine donation and appointment; and therefore I will not take notice, that the same chalice is representative and effective of union and charity (though that is usual enough in societies and friendships,—

—— Pylades, Marce, bibebat idem[r]),

[r] Mart. vi. 11.

but this I shall observe, that the whole effect of the sacrament is equally attributed to the worthy receiving the chalice as to that of the bread; and therefore St. Remy caused these verses to be written on the chalice,

Hauriat hinc populus vitam de sanguine sacro,
Inflicto æternus quem fudit vulnere Christus:

"Let the people from hence draw life issuing from the wounds of Christ:"—now whatsoever effect is attributed to one, is not in exclusion of the other, but in concomitance with it: and therefore, as it would be a strange folly to dispute what benefit we receive by Christ's flesh distinctly, and how much of our redemption is wrought by his blood, and it could have no use and no certainty;—so it would be as strange to say there is so much distinctly in the holy bread, so much in the wine: and it is worse to attribute to one that which can be employed to exclude the other: and it is certain there can be nothing said of advantage that either one or the other hath; and therefore the chalice may exclude the bread, as well as the holy bread the chalice, both alike, that is, indeed neither.

25. But it is to be observed, that, in this inquiry, the question cannot be concerning the receiving Christ; but of receiving the sacraments of Christ, of his body and of his blood. For we receive Christ in baptism, and we receive Christ by faith; and yet nevertheless we are to receive the sacraments of Christ's body and blood: and therefore suppose we did receive Christ in the holy bread, yet that bread is but the sacrament of his broken body; and therefore we must also receive the sacrament of his blood spilt for us; or else we omit to receive the one half of the sacrament.—And if the question were only about receiving Christ, we might pretend the whole sacrament to be needless; because a spiritual communion and faith alone will do that work; but yet faith alone, or the spiritual communion, does not give us the sacrament, nor obey Christ in this instance, nor commemorate and represent his death, which is the duty here inquired of, and here enjoined.

26. (1.) And therefore the dream of the church of Rome, that he that receives the body, receives also the blood, because, by concomitance, the blood is received in the body,—is neither true nor pertinent to this question. Not true, because

the eucharist being the sacrament of the Lord's death, that is, of his body broken, and his blood poured forth, the taking of the sacrament of the body does not by concomitance include the blood; because the body is here sacramentally represented as slain and separate from blood: and that is so notorious, that some superstitious persons A. D. 490, refused the chalice, because, said they, 'the body of Christ represented in the holy sacrament "exangue est," "it is without blood;"' but now the Romanists refuse the chalice, because the body is not without blood. They were both amiss; for it is true the body is represented sacramentally as killed, and therefore without blood, which had ran out at the wounds; and therefore concomitance is an idle and an impertinent dream: but although the body is without blood in his death, yet, because the effusion of the blood is also sacramentally to be represented, therefore they should not omit the chalice.

27. But as to them of the Roman church; if the blood be in the body by concomitance, and therefore they who receive the body, receive also the blood;—then they who sacrifice the body, do also sacrifice the blood; and then it will be no more necessary to celebrate in both kinds than to communicate in both. And indeed though the Roman schools will not endure that the 'sacrifice', as they call it, or the consecration should be in one kind, yet Volaterranus says that 'Pope Innocent VIII. gave leave to the Norwegians to sacrifice in bread only:' certain it is the priest may as well do so, as the people receive in one kind; for the people do, in their manner, as much celebrate the death of Christ as the priest, —nor he alone, nor they alone, but the whole action is the due celebration: however, the argument of the concomitance concludes, equally, against the celebration in both kinds, as against the participation; and why the priest should be obliged to drink the chalice, and cannot be excused by concomitance, and yet the people are not obliged, but are excused by that pretension, abating the reasons of interest,—cannot easily be imagined.

28. Certain it is, they had other thoughts in the council of Turin; for when they considered the necessities of sick and dying people, they appointed the consecrated bread to be sopped in the consecrated chalice; adding this reason,

" ut veraciter presbyter dicere possit, 'Corpus et sanguis Domini nostri Jesu Christi proficiat tibi in remissionem peccatorum et vitam æternam :'" "that the priest may say truly, 'The body and blood of our Lord Jesus Christ be profitable unto you for the remission of your sins and unto life eternal.'" If they had then understood the device of concomitance, they would have known, that the priest might have said so truly, without sopping the holy bread in the chalice: but the good fathers had not yet learned the new metaphysics.

29. (2.) Now for the consequence of this pretension; I consider that let the thing be as true as the interested persons would have it,—yet it is not well, that we should dispute against a divine institution upon a pretence of our vain arguings. The apostles, with great simplicity, took in both kinds at that time, in which only the device of concomitance was or could be true; for then when they received it, the blood was in the body of Christ; but it was sacramental of the blood to be poured out the next day; however, they obeyed with simplicity and without inquiry, and never feared spilling, nor argued, nor sought excuses; such simplicity would equally become us: and as to the usefulness of receiving in both kinds, although it will ill become any man to argue concerning the usefulness of a divine institution,—and to pretend excuses against Christ, upon the account of a philosophy of their own invention, is very much unlike the spirit of humility and wisdom and obedience, which ought to be the investiture of a Christian's heart and the tiara of his head; yet I observe, that, even in this particular, the disadvantage is not little.

30. For if receiving the sacrament be of any advantage to souls, then it is certain he that does not receive it, is a loser; and yet he that does not receive the chalice, does not receive the sacrament, but a piece of it only; now, in sacraments, half is as good as none: as he who should only dip a child in pure water, and yet not invocate the Trinity,—should do nothing at all with his half-baptism; so it is certain, that the effect of a sacrament is not imparted by a half communion, And therefore Alexander of Ales[1] said well, "Sumpto hoc sacramento digne in utraque specie, major est effectus unius corporis mystici cum capite, quam sumpto

[1] Quæst. 32. mem. 1. art. 2.

sub altera:" and in another place[t] he says to receive under both kinds is "majoris meriti tum ratione augmentationis devotionis, tum ratione fidei dilatationis actualis, tum ratione sumptionis completioris:" "it is of greater merit or value, there is a greater mystical union between the head and the members, a greater increase of devotion, a larger and more actual extent of faith, and a more complete sacramental reception of Christ himself."—To the same purpose there are good things spoken in Albertus Magnus[u] and in Thomas Aquinas[x], Bonaventure[y], and Petrus de Palude[z], and divers others, all agreeing that one alone does not make a sacrament, but a piece of one; and that there is advantage by both kinds, which is not to be had in one: which advantage if it be spiritual (as it is, if it be at all), then he that robs the people of a spiritual good, which our blessed Lord hath designed for them and left unto them, is sacrilegious and profane; it is uncharitable and it is impious. I say, it is impious.

31. For it is not to be despised, that our blessed Lord gave this sacrament as his last will and testament; and though he gave it in his body and blood, yet he expressed only 'the new testament in his blood;' and for any church to violate the testament of our blessed Lord, however men may make no great matter of it; yet it will receive a punishment, according as God sets a value upon it: and he that shall pluck one seal from a testament, and say that one is as good as two, when two were put to it by the testator, cannot be excused by saying it was nothing but a formality and a ceremony. God's ceremonies are bound upon us by God's commandment; and what he hath made to be a sign, does signify and exhibit too: and as the brazen serpent, though it was but a type or shadow of the holy crucifix; yet did real cures; so can the symbols and sacraments of the crucifixion, being hallowed by the divine institution, and confirmed by his power; and therefore a violation here is not to be called only a question in a ceremony: it is a substantial part of the Christian religion, it is the sanction of the New Testament, the last will of our dying Lord. "Now if it be but a man's testament," saith St. Paul[a], "yet no man disannulleth or addeth thereto," and therefore to disannul or lessen a portion

[t] Quæst. 55.
[u] 4. Sent. dist. 8. art. 13.
[x] 3. part. Sum. q. 66. art. 2.
[y] Dist. 8. q. 2.
[z] Dist. 11. art. 1.
[a] Gal. iii. 15.

of the testament of the Son of God must needs be a high impiety. "Testamentum, quia individuum est, pro parte agnosci et pro parte repudiari non possit," says the law [b]. If you repudiate a part of the will, you must renounce it all; If you permit not to the people the blood of Christ, you hinder them from having a part in the death of Christ, so far as lies in you. Add to this; that this holy mystery being acknowledged by all to be the most mysterious solemnity of the religion, and, by the church of Rome, affirmed to be a proper sacrifice, and so contended for; it would be remembered that our blessed Saviour did adapt and fit this rite to the usages and customs both of Jews and Gentiles; amongst whom laws, and societies, and contracts, and sacrifices, were made solemn by effusion and drinking of blood; and instead of blood, amongst the more civil nations, they drank wine: and by that were supposed partakers even of the blood of the sacrifice. Ἀπὸ τούτου γε φασὶ μεθύειν ὠνομάσθαι (says Philo), ὅτι μετὰ τὸ θύειν ἔθος ἦν τοῖς προτέροις οἰνοῦσθαι. "To be drunk," viz. in the Greek, "hath its name from their drinking wine after their sacrifices:" and with this custom among the Gentiles, and with the paschal ceremony of this nature amongst the Jews, our blessed Lord, complying, loses the wisdom and prudence of it, if the priest shall sacrifice, and the people drink none of the blood of the sacrifice, or that which ritually and sacramentally represents it. The covenant of the gospel, the covenant which God made with us, our blessed Saviour established and ratified with blood: wine was made to represent and exhibit it; he therefore that takes this away, takes away the very sacramentality of the mystery, and "without blood there is no remission." For as he that gives bread and no water, does not nourish the body but destroy it; so it is in the blessed sacrament: for (that I may use St. Austin's expression which Paschasius and Algerus in this article did much insist upon) "nec caro sine sanguine, nec sanguis sine carne jure communicatur. Totus enim homo ex duabus constans substantiis redimitur, et ideo carne simul et sanguine saginatur:" "neither the flesh without the blood, nor the blood without the flesh, is rightly communicated. For the whole man consisting of two substances, is redeemed, and therefore nourished both with the flesh and

[b] Lib. 7. Jus nostr. Dom. de Reg. Jur.

the blood." *Καὶ οὐ καθάπερ ἐπὶ τῆς παλαιᾶς, τὰ μὲν ὁ ἱερεὺς ἤσθιε, τὰ δὲ ὁ ἀρχόμενος, καὶ θέμις οὐκ ἦν τῷ λαῷ μετέχειν ᾧ μετεῖχεν ὁ ἱερεύς, ἀλλὰ πᾶσιν ἓν σῶμα πρόκειται καὶ ποτήριον ἕν.* "It is not now as it was in the Old Testament, where the priest ate one portion, the prince another, and the people another; here it is alike to all, the same body and the same chalice is to all[c]." I end this inquiry with the saying of St. Cyprian[d]: "Si ne unum quidem ex minimis mandatis legis solvere debemus, multo minus ex his magnis mandatis, pertinentibus ad ipsum Dominicæ passionis et nostræ redemptionis sacramentum, fas est ullum infringere, vel humana traditione mutare:" "If it be not permitted to break one of the least commandments of the law, much less is it to be endured, to break any one, or by human tradition to change any, belonging to the sacrament of our Lord's passion and of our redemption:" and therefore if ever any sect or any single person was guilty of the charge, it is highly to be imputed to the church of Rome, that "they teach for doctrine the commandments of men; and make the commandment of God of none effect by their tradition."

RULE X.

If the Sense of a Law be dubious, we are sometimes to expound it by Liberty, sometimes by Restraint.

1. ALTHOUGH all the laws of Jesus Christ are so legible in the sense intended, that all good men, being placed in their proper circumstances, conducted by the Divine Providence, making use of all their prepared and ready instruments, can certainly read the prime intention and design of God; yet because some laws are so combined with matter, and twisted with material cases, so intricated by the accidents of men and the investiture of actions, that they cast a cloud upon the light of God's word, and a veil upon the guide of our lives; and because the sense of words does change, and very often words cannot be equal with things, it comes to pass, that the laws are capable of differing senses: when, therefore, any thing of this nature happens, the first sense of

[c] Chrysost. Hom. 18. in 2 Cor. [d] Lib. 2. e. 3.

the words is either to be enlarged or restrained according to the following measures.

In what Cases the stricter Sense of the Laws of Christ is to be followed.

2. (1.) When the duty enjoined by the law is in deliberation, and is to be done, we are to use restraint, and take the severer sense of the law. The reason is, because that is the surer way, and hath in it no inconvenience or impossibility; but being it is the matter of choice, in all deliberation for the future we must give sentence for God, and for the interest of religion. Thus, when it is commanded we should "judge ourselves, that we be not judged of the Lord;" in the inquiry, which every penitent man makes concerning the extension of the duty of judging ourselves, if the question be whether judging ourselves means only 'to condemn' ourselves for having sinned, and to confess ourselves justly liable to the divine judgment; or does it also mean 'to punish' ourselves, and by putting our own sentence against our sin into a severe execution of that sentence upon ourselves by corporal inflictions? He that can no otherwise be determined in the question, can safely proceed by choosing the severer side; for there is no loss in it, no omission, it contains all that any man can think to be required; and therefore hath in it prudence and charity, caution and regard, to God and to himself.

3. (2.) This is not to be understood only in case there is a doubt no otherwise to be resolved, but by the collateral advantage of the surer side; but this severer sense of the law is of itself most reasonable to be chosen, as being the intended sense and design of the lawgiver, who certainly puts no positive measures to his own laws of love and duty. For since the great design of the law is such a perfection, which must for ever be growing in this world, and can never here arrive to its state and period, that sense which sets us most forward, is the most intended; and therefore this way is not only to quiet the doubt, but to govern and to rule the conscience: this is not only the surer way, but the only way that is directly intended. It is agreeable to the measures of charity, or the love of God, which is to have no other bounds, but even the best we can, in the measures of God and the infirmities and capacities of man.

4. (3.) In the interpretation of the laws of Christ, the strict sense is to be followed, when the laws relate to God and to religion, and contain in them direct matter of piety and glorifications of God, or charity to our neighbour; because in them the further we go, the nearer we are to God, and we are not at all to be stopped in that progression, till we are at our journey's end, till we are in the state of comprehension. To this purpose are those words of Ben Sirach[e], "When you glorify the Lord, exalt him as much as you can; for even yet will he far exceed; and when you exalt him, put forth all your strength, and be not weary, for you can never go far enough. Who hath seen him that he might tell us, and who can magnify him as he is? There are hid greater things yet than these be, for we have seen but a few of his works;" meaning, that although we cannot glorify God sufficiently for the works of power and mercy which we see and feel, yet because there are very many works, which we see not, and infinite numbers and seas of glories above the clouds, which we perceive not, and cannot understand,—the only measures of religion and the love of God which we are to take, are to "pray continually, to love God always, to serve him without end, to be zealous beyond all measures, excepting those of duty and prudence,—to be religious without a limit, always to desire, always to endeavour, never to rest as long as we can work, never to give over as long as any thing is unfinished;" and consequent or symbolical to all this, that in all disputes of religion we choose the sense of love, not of weariness; that we do not contend for the lesser measures, but strive in all our faculties and desire beyond their strength, and propound Christ for our precedent, and heaven for our reward, and infinity for our measures, towards which we are to set forth by our active and quick endeavour, and to which we are to reach by our constancy and desires, our love and the divine acceptance.

When the Laws of Christ are to be expounded to a Sense of Ease and Liberty.

5. If to the sense of the duty there be a collateral and indirect burden and evil appendage, the alleviating of that burden is to be an ingredient into the interpretation of the

[e] Eccles. xliii. 30—32.

law, and the direct duty is to be done in such measures, as may do the most good with suffering the least evil. This happens in two cases:

6. (1.) If the strict and severer sense of the law be too great for the state and strength of the man, that is, if it be apt to make him despair, to make him throw away his burden, to make him tire, to be weary of, and to hate religion,—his infirmities are to be pitied, and the severest sense of the law is not to be exacted of him. "Apices juris non sunt jus," say the lawyers: "The little punctilios and minutes of law are not law;" because if our duty be extended to every little tittle of duty, it were necessary that our observation and attendance should be as particular and punctual; but because that cannot always be actual and intent, particular and incumbent, those things which insensibly pass by the observation of a diligent watchful person, do also inculpably pass by the man. But of this I have already given accounts in another place[f]. For the present I further consider, that charity being the great end of the law, and every law being a design of making a man happy, every commandment of God is then best understood, when it is made to do most good, and rescued from being an occasion of evil. The government of Jesus Christ is most paternal and serene: his rod is not heavy, his commandments are not grievous, his bands are not snares; but they are holiness, and they are liberty, they are 'glory to God, and good-will towards men.'

7. But this at no hand means, that any material or integral part of duty can be omitted, and the omission indulged in compliance with any man's infirmity or danger; for the law is to be our measure, our weaknesses cannot be the measure of the integrity of the law; that infirmity by which we omit any part of duty is a state of sin; and God, who knew all our infirmities, and possibilities or impossibilities of obedience, complied sufficiently in the sanction of the law, and imposed no more burden than was even with our powers; and therefore for what remains we must stoop our shoulder and bear the burden which God's wisdom made reasonable and tolerable, and our necessity and interest make unavoidable, and love will make easy and delectable.

8. But the burden which can be lessened, is the burden

[f] Doctrine and Practice of Repentance, c. 3.

of degrees of intension, or any thing which consists not in a mathematical point, but is capable of growth: whatsoever is of such a nature as is always to increase in this life, in that such abatements may be made as will fit the person and the state; and no man is to be quarrelled at for degrees in the beginnings, or in the first progressions of his piety, only he is to be invited on by proper and fair inducements; and if he stands still always, as he is to be suspected for want of love, so he is to be warned of his danger, and thrust forward by the memory of the best examples. Thus it may not, upon any terms, be permitted to any weak person to do an act of injustice, to blaspheme God, to reproach his father, to be wanton; he may not be allowed to slander his brother, to neglect his children, to despise his wife, to part from her because he is weary of her; for fear the not indulging any thing of this nature to him should provoke him to anger against the religion. We may not give easy answers in cases of conscience, or promise heaven to them that live evil lives, for fear that our severity should make them forsake our communion and go to the Roman church; that is, we must not allow any man to do one evil to hinder him from another, or give leave to him to break one commandment that we may preserve another. But of this I have already given more particular accounts[s]. That which at present I intend is, that no sin or omission of duty is to be permitted, no law of Christ is to be expounded to comply with us against God; but when a less severe sense is within the limits of duty, that our weaknesses are to be complied withal, is affirmed as being most charitable and necessary. Thus, if it be inquired whether our sorrow for our sins ought to be punitive and vindictive, sharp and sensible as the perception of any temporal evil, as the sorrow of a mother for the death of her only child, this being a question of degrees which cannot consist in an indivisible point, is never limited and determinate; any degree that can consist with the main duty, may be permitted to him whose necessity requires such indulgence; and if he be sorrowful in such a degree as to move him to pray passionately and perseveringly for pardon, to beget in him a wise and a wary caution against temptation, to produce in him hatred against sin, and dereliction of it, a war and a victory, the death of sin,

[s] Vide book 1. chap. 5. rule 8. n. 16. &c. usque ad finem.

and the life of righteousness, the penitent is not to be prejudiced by the degree of his sorrow, or the thickness of its edge, and the commandment is so to be expounded as to secure the duty and secure the man too: and if he be told that a less degree of sorrow than the supreme will not serve his turn, and that the commandment is to be expounded in the greatest and severest measures, he that finds this impossible to him, will let it alone,—for as good never a whit as never the better; but then, he that tells him so, hath laid a snare for his brother's foot, and binds upon his shoulder a burden too heavy for him. For to what purpose can we imagine that there should be a latitude in the commandment, and yet no use to be made of the least degree? and if God cherishes the babes in Christ, and is pleased in every step of our progression, then it is certain that they who are but babes, are to be treated accordingly, and the commandment is to be acted by the proportions of the man. But then if the question be concerning the integrity of the repentance, he that is troubled at heart because he is told that a resolution to leave sin is not enough, that without restitution there is no repentance; he that will kick at religion, because it requires all the duties which integrate the commandment, is not to be complied with, nor permitted to his folly.—I have read of a gentleman who, being on his death-bed,—and his confessor searching and dressing of his wounded soul,—was found to be obliged to make restitution of a considerable sum of money, with the diminution of his estate. His confessor found him desirous to be saved, a lover of his religion, and yet to have a kindness for his estate, which he desired might be entirely transmitted to his beloved heir: he would serve God with all his heart, and repented him of his sin, of his rapine and injustice, he begged for pardon passionately, he humbly hoped for mercy, he resolved, in case he did recover, to live strictly, to love God, to reverence his priests, to be charitable to the poor; but to make restitution he found impossible to him, and he hoped the commandment would not require it of him, and desired to be relieved by an easy and a favourable interpretation; for it is ten thousand pities so many good actions and good purposes should be in vain, but it is worse, infinitely worse, if the man should perish. What should the confessor do in this case? shall not the man be relieved; and his piety be accepted?

or shall the rigour and severity of the confessor, and his scrupulous fears and impertinent niceness, cast away a soul either into future misery, or present discomfort? neither one nor other was to be done; and the good man was only to consider what God had made necessary, not what the vices of his penitent and his present follies should make so. Well: the priest insists upon his first resolution, "Non dimittitur peccatum, nisi restituatur ablatum:" the sick man could have no ease by the loss of a duty. The poor clinic desires the confessor to deal with his son, and try if he could be made willing that his father might go to heaven at the charge of his son; which when he had attempted, he was answered with extreme rudenesses and injurious language; which caused great trouble to the priest and to the dying father. At last the religious man found out this device, telling his penitent, that unless by corporal penances there could be made satisfaction in exchange for restitution, he knew no hopes; but because the profit of the estate which was obliged to restitution, was to descend upon the son, he thought something might be hoped, if, by way of commutation, the son would hold his finger in a burning candle for a quarter of an hour. The glad father being overjoyed at this loop-hole of eternity, this glimpse of heaven, and the certain retaining of the whole estate, called to his son, told him the condition and the advantages to them both, making no question but he would gladly undertake the penance. But the son with indignation replied, 'he would not endure so much torture to save the whole estate.' To which the priest espying his advantage, made this quick return to the old man, 'Sir, if your son will not, for a quarter of an hour, endure the pains of a burning finger to save your soul, will you, to save a portion of the estate for him, endure the flames of hell to eternal ages?' The unreasonableness of the odds, and the ungratefulness of the son, and the importunity of the priest, and the fear of hell, and the indispensable necessity of restitution, awakened the old man from his lethargy, and he bowed himself to the rule, made restitution, and had hopes of pardon and present comfort.

9. (2.) The other case in which the law is to be expounded to the sense of ease and liberty, is, when the question is concerning outward actions, or the crusts and outsides of reli-

gion. For the Christian religion being wholly spiritual, and being ministered to by bodily exercises, and they being but significations of the inward, not at all pleasing to God for themselves, but as they edify, instruct, or do advantages to men,—they are in all cases to be exacted, but in such proportions as can consist with charity, which is the life of religion: and therefore if a soul be in danger to be tempted, or overburdened with a bodily exercise, if there be hazard that all religion will be hated, and that the man will break the yoke, if he be pinched in his skin,—it is better to secure the great and internal principle of obedience, than the external instance and expression. This caution of use in the injunction of fasting-days, and external acts of mortification, which are indeed effects of the laws of Christ, but the measures of these laws are to be such as consist with the great end of the laws, that is, mercy and internal religion. And the great reason of this is; because all external actions are really such as without our fault they may be hindered; there may be some accidents and causes by which they shall not be at all, and there may be many more by which they may be eased and lessened. An external accident, or a corporal infirmity, is to be complied withal in the matter of external ministries; that is, when there is mercy in it: and so must every virtue and inward grace, because it is for the interest of religion. Now what must be permitted in the action ought to be so in the sentence; and that is the meaning of the law, which is either commanded to the strong or indulged to the weak. Add to this, that outward actions of religion are for the weak, not for the strong; they are to minister to weakness and infirmities, and by bodily expressions to invite forward, to entertain; to ferment, to endear the spirit of a man to the purposes of God; but even the body itself shall be spiritual, and it is intended that it shall wholly minister to God in spiritual services hereafter. In the meantime, by outward acts it does something symbolical, or at least expressive of the inward duty. But therefore if the external do disserve the Spirit of God by oppressing the spirit of the man; that whose nature and institution are wholly instrumental, must be made to comply with the end; and therefore must stand there when it is apt to minister to it, but must go away if it hinders it.

10. (3.) In the interpretation of the laws of Christ to a sense of ease and liberty, there must be no limits and lessenings described beforehand; or in general; because any such proceeding would not only be destitute of that reason, which warrants it in some cases, but would evacuate the great purpose of the law in all: that is, it would be more than what is necessary to comply with new and accidental necessities; and to others it would be less than what is intended in the law, it would either tie the weak to impossibilities, or give leave to the strong to be negligent and unprofitable; it would command too much or permit too much; it would either hold the bridle too hard, or break it all in pieces. But the interpretation and ease must be as accidental as the cause that enforces it, or the need that invites it; that is, every law of Christ intends that we should obey it in the perfection, that we should do it in the best way we can; and every man must do so; but because all cannot do alike, every man's best is alike in the event, but not in the action; and therefore the law which is made for man, must mean no more than every man can do; but because no man is to be supposed to be in disorder and weakness, till he be found to be so, therefore beforehand no compliance or easy interpretation is to be made of the degrees of duty.

11. (4.) No laws of Christ are to suffer diminution of interpretation in the degrees to persons that make themselves weak, that they may bear but a little burden: but the gentler sentence and sense of laws are to be applied to ease the weary and the afflicted, him that desires much and can do but little; to him that loves God and loves religion; to him that endeavours heartily, and inquires diligently, and means honestly; to him that hath every thing but strength, and wants nothing but growth, and time, and good circumstances, and the prosperities of piety. The best indications of which state of persons are these:

Who are truly and innocently weak, and to be complied with.

12. (1.) They are to be complied with who are new beginners in religion, or the uninstructed; they who want strengths not by reason of any habitual sin, but by the nature of beginnings and new changes; for none can more innocently pretend to a forbearance and sufferance, than those

who have the weakness of infancy. But I added also that the uninstructed have the same pretension, for according as their degrees of ignorance are, so are the degrees of their excusable infirmity. But then by 'uninstructed' is only meant such who have not heard, or could not learn; not such who are ever learning and never sufficiently taught; that is, such who love to hear but not to be doers of the word, such who are perverse and immorigerous, such who serve a humour or an interest, an opinion or a peevish sect in their learning. For there are some who have spent much time in the inquiries of religion, whom if you call ignorant, they suppose themselves injured; and yet will require the privileges and compliances of the weak: these men trouble others, and therefore are not to be eased themselves; their weakness of state is the impotency of passion, and therefore they must not rejoice in that by which they make others grieved.

13. (2.) They are to be complied with according to the foregoing measures, who in all things where they know and can, do their hearty endeavours, and make no abatement to themselves, but with diligence and sincerity prosecute their duty. For this diligence and sincerity are a competent testimony that the principle of their necessity is not evil but innocent and unavoidable. Whatsoever is not an effect of idleness or peevishness, may come in upon a fair, but always comes in upon a pitiable account; and therefore is that subject which is capable of all that ease and rigour and severity which the wise masters of assemblies and interpreters of the divine laws do allow to any persons in any cases.

14. (3.) The last sign of subjects capable of ease, is infirmity of body; and that is a certain disposition to all the mercies and remissions of the law in such cases as relate to the body, and are instanced in external ministries. To which also is to be referred disability of estate in duties of exterior charity; which are to be exacted according to the proportions of men's civil power, taking in the needs of their persons and of their relations, their calling and their quality. And that God intends it should be so appears in this; because all outward duties are so enjoined that they can be supplied, and the internal grace instanced in other actions, of which there are so many kinds that some or other can be done by every one; and yet there is so great variety that no man or but

very few men can do all. I instance in the several ways of mortification, viz. by fastings, by watchings and pernoctations in prayer, lyings on the ground, by toleration and patience, laborious gestures of the body in prayer, standing with arms extended, long kneelings on the bare ground, suffering contradiction and affronts, lessenings and undervaluings, peevish and cross accidents, denying ourselves lawful pleasures, refusing a pleasant morsel, leaving society and meetings of friends, and very many things of the like nature; by any of which the body may be mortified and the soul disciplined: or the outward act may be supplied by an active and intense love which can do every thing of duty: so also it is in alms, which some do by giving money to the poor; some by comforting the afflicted, some by giving silver and gold,—others which have it not, do yet do greater things: but since it matters not what it is we are able to do, so that we do but what we are able,—it matters not how the grace be instanced, so that by all the instances we can, we do minister to the grace, it follows, that the law can be made to bend in any thing of the external instance, so that the inward grace be not neglected; but therefore it is certain that because every thing of matter can by matter be hindered; and a string or a chain of iron can hinder all the duty of the hand and foot, God who imposes and exacts nothing that is impossible, is contented that the obedience of the spirit be secured, and the body must obey the law as well as it can.

But there are some other considerations to be added to the main rule.

15. (5.) When the action is already done, and that there is no further deliberation concerning the direct duty, yet the law is not at all to be eased and lessened, if there be a deliberation concerning the collateral and accidental duty of repentance: and this is upon the same reasons as the first limitation of the rule: for when a duty is to be done, and a deliberation to be had, we are in perfect choice, and therefore we are to answer for God and for religion: and this is all one, whether the inquiry be made in the matter of innocence or repentance, that is, in the preventing of a sin or curing of it. For we are in all things tied to as great a care of our duty after we have once broken it, as before; and in some things to a greater; and repentance is nothing but a new

beginning of our duty, a going from our error, and a recovery of our loss, and a restitution of our health, and a being put into the same estate from whence we were fallen; so that at least all the same severities are to be used in repentance, as great a rigour of sentence, as strict a caution, as careful a walking, as humble and universal an obedience, besides the sorrow and the relative parts of duty, which come in upon the account of our sin.

16. (6.) But if the inquiry be made after the sin is done, and that there is no deliberation concerning any present or future duty, but concerning the hopes or state of pardon, then we may hope that God will be easy to give us pardon, according to the gentlest sense and measures of the law. For this, provided it be not brought into evil example in the measures of duty afterward, can have in it no danger: it is matter of hope, and therefore keeps a man from despair; but because it is but matter of hope, therefore it is not apt to abuse him into presumption, and if it be mistaken in the measures of the law, yet it makes it up upon the account of God's mercy, and it will be all one; either it is God's mercy in making an easy sense of the law, or God's mercy in giving an easy sentence on the man, or God's mercy in easing and taking off the punishment, and that will be all one as to the event, and therefore will be a sufficient warrant for our hope, because it will some way or other come to pass as we hope. It is all alike whether we be saved because God will exact no more of us, or because though he did exact more by his law, yet he will pardon so much the more in the sentence: but this is of use only to them who are tempted to despair, or oppressed by too violent fears; and it relies upon all the lines of the divine mercy, and upon all the arguments of comfort by which declining hopes use to be supported: and since we ourselves, by observing our incurable infirmities, espy some necessities of having the law read in the easier sense, we do, in the event of things, find that we have a need of pardon greater than we could think we should in the heats of our first conversion, and the fervours of our newly-returning piety; and therefore God does not only see much more reason to pity us upon the same account; but upon divers others, some whereof we know, and some we know not; but therefore we can hope for more than we yet see in the lines

of revelation, and possibly we may receive in many cases better measure than we yet hope for: but whoever makes this hope to lessen his duty, will find himself ashamed in his hope; for no hope is reasonable but that which quickens our piety, and hastens and perfects our repentance, and purifies the soul, and engages all the powers of action, and ends in the love of God, and in a holy life.

17. (7.) There are many other things to be added by way of assistance to them, who are pressed with the burden of a law severely apprehended, or unequally applied, or not rightly understood; but the sum of them is this.

1. If the sense be hidden or dubious, do nothing till the cloud be off, and the doubt be removed.

2. If the law be indifferent to two senses, take that which is most pious and most holy.

3. If it be between two, but not perfectly indifferent, follow that which is most probable.

4. Do after the custom and common usages of the best and wisest men.

5. Do with the most, and speak with the least.

6. Ever bend thy determination to comply with the analogy of faith, and the common measures of good life, and the glorifications and honour of God, and the utility of our neighbour.

7. Then choose thy part of obedience, and do it cheerfully and confidently, with a great industry and a full persuasion.

8. After the action is done, enter into no new disputes, whether it was lawful or no, unless it be upon new instances and new arguments, relating to what is to come,—and not troubling thyself with that, which with prudence and deliberation thou didst (as things were then represented) well and wisely choose.

RULE XI.

The positive Laws of Jesus Christ cannot be dispensed with by any human Power.

1. I HAVE already in this book[h] given account of the indispensability of the natural laws, which are the main constituent parts of the evangelical; but there are some positive laws whose reason is not natural nor eternal, which yet Christ hath superinduced; concerning which there is great question made whether they be dispensable by human power. Now concerning these I say, that all laws given by Christ are now made for ever to be obligatory, and he is the King of heaven and earth, the head and prince of the catholic church, and therefore hath supreme power; and he is the "wonderful Counsellor, the everlasting Father, the Prince of Peace," and his wisdom is supreme, he is the wisdom of the Father, and therefore he hath made his laws so wisely, so agreeably to the powers and accidents of mankind, that they can be observed by all men and all ways, where he hath passed an obligation. Now because every dispensation of laws must needs suppose an infirmity or imperfection in the law, or an infirmity in the man, that is, that either the law did infer inconvenience which was not foreseen, or was unavoidable; or else the law meets with the changes of mankind with which it is not made in the sanction to comply, and therefore must be forced to yield to the needs of the man, and stand aside till that necessity be passed: it follows that in the laws of the holy Jesus there is no dispensation; because there is in the law no infirmity, and no incapacity in the man: for every man can always obey all that which Christ commanded and exacted: I mean, he hath no natural impotency to do any act that Christ hath required, and he can never be hindered from doing of his duty.

2. (1.) And this appears in this; because God hath appointed a harbour whither every vessel can put in, when he meets with storms and contrary winds abroad: and when we are commanded by a persecutor not to obey God, we cannot be forced to comply with the evil man; for we can be secure against him by suffering what he pleases, and therefore dis-

[h] Chap. 1. rule 10.

obedience to a law of Christ cannot be made necessary by any external violence: I mean, every internal act is not in itself impedible by outward violence: and the external act which is made necessary, can be secured by a resolution to obey God rather than men.

3. (2.) But there are some external actions and instances of a commandment, which may, accidentally, become impossible by subtraction of the material part; so for want of water a child cannot be baptized; for want of wine or bread we cannot communicate; which indeed is true; but do not infer, that therefore there is a power of dispensing left in any man or company of men; because in such cases there is no law, and therefore no need of dispensation; for affirmative precepts, in which only there can be an external impediment, do not oblige but in their proper circumstances and possibilities: and thus it is even in human laws. No law obliges beyond our power; and although it be necessary sometimes to get a dispensation even in such cases, to rescue ourselves from the malice or the carelessness, the ignorance or the contrary interests, of the ministers of justice, who go by the words of the law, and are not competent or not instructed judges in the matter of necessity or excuse, yet there is no such need in the laws of God. For God is always just and always wise, he knows when we can and when we cannot; and therefore as he cannot be deceived by ignorance, so neither can he oppress any man by injustice, and we need not have leave to let a thing alone, which we cannot do if we would never so fain; and if we cannot obey, we need not require of God a warrant under his hand, or an act of indemnity, for which his justice and his goodness, his wisdom and his very nature, are infinite security: and therefore it cannot be necessary to the church, that a power of dispensing should be intrusted to men, in such cases where we cannot suppose the law of God to bind. That is our best security, that we need no dispensation.

4. (3.) In external actions and instances of virtue, or of obedience to a commandment of Jesus Christ, wherever there can be a hinderance, if the obligation does remain, the instance that is hindered, can be supplied with another of the same kind. Thus relieving the poor hungry man, can be hindered by my own poverty and present need, but I can visit him that is sick, though I cannot feed the hungry, or I

can give him bread when I cannot give him a cloak; and therefore there can need no dispensation when the commandment, if it be hindered in one instance, can as perfectly, and to all the intentions of our lawgiver, be performed in another.

5. (4.) In external actions which can be hindered and which cannot be supplied by the variety of the instances in the same kind, yet if the obligation remains, they may be supplied with the internal act, and with the spiritual. Thus if we cannot receive actual baptism, the desire of it is accepted; and he that communicates spiritually, that is, by faith and charity, by inward devotion and hearty desire, is not guilty of the breach of the commandment, if he does not communicate sacramentally, being unavoidably and inculpably hindered. For whatsoever is not in our power, cannot be under a law, and where we do not consent to the breach of a commandment, we cannot be exposed to the punishment. This is the voice of all the world, and this is natural reason, and the ground of justice, without which there can be no government but what is tyrannical and unreasonable. These things being notorious and confessed, the consequents are these:

6. (1.) That there is no necessity that a power of dispensing in the positive laws of Christ should be intrusted to any man, or to any society. Because the law needs it not, and the subjects need it not: and he that dispenses, must either do it when there is cause, or when there is none. If he dispenses when there is no cause, he makes himself superior to the power of God by exercising dominion over his laws: if he dispenses when there is cause, he dispenses when there is no need. For if the subject can obey, he must obey, and man cannot untie what God hath bound: but if he cannot obey, he is not bound, and therefore needs not to be untied: he may as well go about to unbend a straight line, or to number that which is not, as to dispense in a law, to which in such cases God exacts no obedience.

7. Panormitan[i] affirms that "the Pope hath power to dispense in all the laws of God, except in the articles of faith;" and to this purpose he cites Innocentius "in cap. Cum ad Monasterium, de Statu Monachorum." Felinus[k] affirms that

[i] Cap. Proposuit. de Concess. Præpend. n. 20.
[k] In cap. Quæ in Eccles. Inconst. n. 19, 20.

" the Pope can change the form of baptism, and that he can with one word, and without all solemnity, consecrate a priest, and that he can by his word alone make a bishop:" and though these pretences are insolent and strange, yet in fact he does as much as this comes to: for the Pope gives leave sometimes to a mere priest to give confirmation, which by divine right is only belonging to bishops by their own confession. That the blessed eucharist is to be consecrated in both kinds is certainly of divine right; and so confessed by the church of Rome: but the Pope hath actually dispensed in this article and given leave to some to consecrate in bread only, and particularly to the Norwegians a dispensation was given by Innocent VIII. as I have already noted out of Volaterranus.

8. There are some learned men amongst them who speak in this question with less scandal, but almost with the same intentions and effects. Some of their divines,—particularly the bishop[1] of the Canaries says that " the Pope hath not power to dispense in the whole, or in all the laws of God, but in some only;" namely, where the observation of the law is ' impeditiva majoris boni,' ' a hinderance or obstruction to a greater spiritual good;' as it may happen in oaths and vows:"—and (Sanchez adds) in the consecration of the blessed sacrament in both kinds: in these, say they, the Pope can dispense; but where the observation of the laws in the particular brings no evil or inconvenience, and does never hinder a greater good, there the laws are indispensable; such as are ' confessions, baptism, using a set form of words in the ministration of the sacraments.' So that the meaning is, the Pope never wants a power to do it, if there be not wanting an excuse to colour it; and then, in effect, the divines agree with the lawyers; for since the power of dispensing is given in words indefinite and without specification of particulars, if it be given at all; the authority must be unlimited as to the person, and can be limited only by the incapacity of the matter; and if there could be any inconvenience in any law, there might be a dispensation in it: so that the divines and the lawyers differ only in the instances; which if we should consider, or if any great interest could be served by any, there can be no doubt but it would be found a sufficient

[1] Canus Relect. de Pœnitent. p. 5. ad finem.

cause of dispensation. So that this is but to cozen mankind with a distinction to no purpose; and to affirm that the Pope cannot dispense in such things which yield no man any good or profit: such as is the using a set form of words in baptism, or the like; and they may at an easy rate pretend the Pope's power to be limited, when they only restrain him from violating a divine law, when either the observation of it is for his own advantage, as in confession (meaning to a priest), or when it serves the interest of no man to have it changed, as in the forms of sacraments.

9. But then, that I may speak to the other part; to say that 'the Pope may dispense in a divine law, when the particular observation does hinder a greater spiritual good, and that this is a sufficient cause,' is a proposition in all things false, and, in some cases, even in those where they instance, very dangerous. It is false, because if a man can by his own act be obliged to do a thing which yet is impeditive of a greater temporal good, then God can by his law oblige his obedience, though accidentally it hinder a greater spiritual good. Now if a man have promised, he must "keep it though it were to his own hinderance," said David[m]; and a man may not break his oath, though the keeping of it hinder him from any spiritual comforts and advantages; nay, a man may neglect a spiritual advantage for a temporal necessity; and in the Bohemian wars, the king had better been at the head of his troops, than at a sermon, when Prague was taken.

But I consider (for that is also very material) that it is dangerous. For when men, to justify a pretence, or verify an action, or to usurp a power, shall pretend that there is on the other side a greater spiritual good, they may very easily deceive others, because either voluntarily or involuntarily they deceive themselves; for when God hath given a commandment, who can say that to let it alone can do no more good to a man's soul than to keep it? I instance in a particular which is of great interest with them. If a man have vowed to a woman to marry her, and contracted himself to her 'per verba de præsenti;' she, according to her duty, loves him passionately, hath married her very soul to him, and her heart is bound up in his: but he changes his mind, and enters into religion; but stops at the very gate, and asks who shall warrant him

[m] Psal. xv.

for the breach of his faith and vows to his spouse. The Pope answers he will; and though by the law of God he be tied to that woman, yet because the keeping of that vow would hinder him from doing God better service in religion, this is a sufficient cause for him to dispense with his vow. This then is the case concerning which I inquire: 1. How does it appear that to enter into a monastery is absolutely a greater spiritual good than to live chastely with the wife of his love and vows? 2. I inquire, whether to break a man's vow be not of itself (abstracting from all extrinsical pretensions and collateral inducements) a very great sin? and if there were not a great good to follow the breach of it, I demand whether could the Pope dispense or give leave to any man to do it? If he could, then it is plain he can give leave to a man to do a very great evil; for without the accidentally consequent good, it is confessed to be very evil to break our lawful vows: but if he cannot dispense with his vow, unless some great good were to follow upon the breach of it, then it is clear he can give leave to a man to do evil, that good may come of it: for if without such a reason, or such a consequent good, the Pope could not dispense, then the consequent good does legitimate the dispensation; and either an evil act done for a good end is lawful and becomes good, or else the Pope plainly gives him leave to do that, which is still remaining evil, for a good end: either of which is intolerable, and equally against the apostle's rule, which is also a rule of natural religion and reason: No man must do evil for a good end. But then, 3. Who can assure me, that an act of religion is better than an act of justice? or that God will be served by doing my wife an injury? or that he will accept of me a new vow, which is perfectly a breaking off an old? or that, by our vows to our wives, we are not as much obliged to God as by monastical vows before our abbot? or that marriage is not as great an act of religion if wisely and holily undertaken (as it ought to be), as the taking the habit of St. Francis? or that I can be capable of giving myself to religion, when I have given the right and power of myself away to another? or that I may not as well steal from a man to give alms to the poor, as wrong my wife to give myself to a cloister? or that he can ever give himself to religion, who breaks the religion of vows and promises, of justice and honour, of faith and the sacramental mystery, that he may go

into religion? or that my retirement in a cloister, and doing all that there is intended, can make recompense for making my wife miserable, and, it may be, desperate and calamitous all her lifetime? Can God be delighted with my prayers which I offer to him in a cloister, when, it may be, at the same time my injured spouse is praying to God to do her justice and to avenge my perjuries upon my guilty head, and, it may be, cries aloud to God, and weeps and curses night and day? who can tell which is better, or which is worse? for marriage and single life, of themselves, are indifferent to piety or impiety; they may be used well, or abused to evil purposes; but if they take their estimate by the event, no man can beforehand tell, which would have been the greater spiritual good. But suppose it as you list, yet,

11. I consider, that when God says that "obedience is better than sacrifice," he hath plainly told us, that no pretence of religion, or of a greater spiritual good, can legitimate vow-breach, or disobedience to a divine commandment: and therefore, either the Pope must dispense in all laws of Christ, and without all reason;—that is, by his absolute authority and supereminency over the law and the power that established it, or else he cannot dispense at all; for there is no reason, that can legitimate our disobedience.

12. But then, if we consider the authority itself, the considerations will be very material. No man pretends to a power of dispensing in the law of God but the Pope only; and he only upon pretence of the words spoken to St. Peter, "Whatsoever thou shalt loose on earth, shall be loosed in heaven[n]." Now did ever any of the apostles or apostolical men suppose, that St. Peter could, in any case, dispense with vow-breach, or the violation of a lawful oath? Was not all that power, which was then promised to him, wholly relative to the matter of fraternal correption? and was it not equally given to the apostles? for either it was never performed to St. Peter, or else it was alike promised and performed to all the apostles in the donation of the Spirit, and of the power of binding, and the words of Christ[o] to them before and after his resurrection; so that, by certain consequence of this, either all the successors of the apostles have the same power, or none of the successors of St. Peter. Or

[n] Matt. xvi. 19. [o] Matt. xviii. 18. John, xx. 23.

if the successors of St. Peter only, why not his successors at Antioch, as well as his successors at Rome? since it is certain that he was at Antioch; but it is not so certain that he was at all at Rome: for those things, that Ulricus Velenus says against it in a tractate on purpose on that subject, and published by Goldastus in his third tome, are not inconsiderable allegations and arguments for the negative. And suppose he was, yet it is as likely, that is, as certain as the other,—that, after the martyrdom of St. Peter and St. Paul, there were two bishops or popes of Rome; as it is conjectured by the different catalogues of the first successions, and by their differing presidencies or episcopacies; one being over the circumcision, and the other over the uncircumcision (if, I say, they were at all, concerning which I have no occasion to interpose my sentence). But if either this gift was given in common to all the apostles, or if it was given personally to St. Peter, or if it means only the power of discipline over sinners and penitent persons, or if it does not mean to destroy all justice and human contracts, to rescind all the laws of God and man, to make Christ's laws subject to Christ's minister, and Christ's kingdom to be the Pope's inheritance and possession, "in alto Dominio," if those words of Christ to St. Peter, are so to be understood as that his subjects and servants shall still be left in those rights, which he hath given and confirmed and sanctified, then it follows undeniably, that St. Peter's power of the keys is not to be a picklock of the laws of his Master, but to bind men to the performance of them, or to the punishment of breaking them; and if by those words of "Whatsoever thou shalt loose," it be permitted to loose and untie the band of oaths and vows, then they may also mean a power of loosing any man's life, or any man's right, or any man's word, or any man's oath, or any man's obligation, solemn or unsolemn, when he hath really an interest or reason so to do, of which reason himself only can be the warrantable judge: which things, because they are insufferably unreasonable, that pretence which infers such evils and such impieties, must be also insufferable and impossible.

13. I conclude therefore with this distinction: There is a proper dispensation, that is, such a dispensation as supposes the obligation remaining upon that person, who is to be dis-

pensed with: but no man or society of men can, in this sense, dispense with any law of Christ. But there is a dispensation improperly so called, which does not suppose a remanent obligation, and therefore pretends not to take away any, but supposes only a doubt remaining, whether the law does, by God's intention, oblige or no. He that hath skill and authority and reason to declare, that, in such special cases, God intended not to oblige the conscience, hath taken away the doubt, and made that to become lawful, which, without such a declaration, by reason of the remaining doubt, was not so. This is properly an interpretation: but because it hath the same effect upon the man, which the other hath directly upon the law, therefore by divines and lawyers it is sometimes also a dispensation, but improperly.

14. But the other consequent arising from the first observations, which I made upon this rule, is this,—that as there is no necessity that there should be any dispensation in the laws of Jesus Christ; so in those cases where there may be an improper dispensation, that is, an interpretation or declaration that the law in this case does not bind at all, no man must, by way of equity or condescension and expedient, appoint any thing that the law permits not, or declare that a part of the law may be used, when the whole is in the institution. For example: The Norwegians complained, that they could very seldom get any wine into their country, and, when it did come, it was almost vinegar or vappe: he who had reason and authority, might then certainly have declared, that the precept of consecrating did not oblige, when they had not matter with which they were to do it; because no good law obliges to impossibilities: but then no man of his own head might interpose an expedient, and say, 'Though you have no wine to consecrate and celebrate withal, yet you may do it in ale or meath;' nor yet might he warrant an imperfect consecration, and allow that the priests should celebrate with bread only. The reason is, because all institutions sacramental, and positive laws, depend not upon the nature of the things themselves, according to the extension or diminution of which our obedience might be measured; but they depend wholly on the will of the lawgiver, and the will of the supreme, being actually limited to this specification, this manner, this matter, this institution; whatso-

ever comes besides, it hath no foundation in the will of the legislator, and therefore can have no warrant or authority. That it be obeyed or not obeyed, is all the question and all the variety. If it can be obeyed, it must; if it cannot, it must be let alone. The right mother, that appeared before Solomon, demanded her child; half her own was offered; but that was not it which would do her good, neither would she have been pleased with a whole bolster of goats' hair, or with a perfect image of her child, or with a living lamb; it was her own child, which she demanded: so it is in the divine institution; whatsoever God wills, that we must attend to: and therefore, whatsoever depends upon a divine law or institution, whatsoever is appointed instrumental to the signification of a mystery, or to the collation of a grace or a power, he that does any thing of his own head, either must be a despiser of God's will, or must suppose himself the author of a grace, or else to do nothing at all in what he does,—because all his obedience, and all the blessing of his obedience, depend upon the will of God, which ought always to be obeyed when it can, and when it cannot, nothing can supply it; because the reason of it cannot be understood; for who can tell why God would have the death of his Son celebrated by bread and wine? why by both the symbols? why by such? and therefore no proportions can be made; and if they could, yet they cannot be warranted.

15. This rule is not only to be understood concerning the express positive laws and institutions of our blessed Lawgiver; but even those which are included within those laws, or are necessary appendages to those institutions, are to be obeyed, and can never be dispensed withal, nor diverted by any supplétory or expedient. Thus to the law of representing and commemorating the death of our dearest Lord by the celebration of his last supper, it is necessarily appendant and included, that we should come worthily prepared,—lest that which is holy, be given to dogs, and holy things be handled unholily. In this case, there can be no dispensation; and although the curates of souls, having the key of knowledge and understanding to divide the word of God rightly, have power and warrant to tell what measures and degrees of preparation are just and holy; yet they cannot give any dispensation in any just and required degree, nor, by their sentence, effect that a

less degree than God requires in the appendant law, can be sufficient to any man,—neither can any human authority commute a duty that God requires; and, when he demands repentance, no man can dispense with him, that is, to communicate, or give him leave to give alms, instead of repentance. But if, in the duty of preparation, God had involved the duty of confession to a priest, this might have, in some cases, been wholly let alone: that is, in case there were no priest to be had but one, who were to consecrate and who could not attend to hear my confessions: and the reason is, because in case of the destitution of any material or necessary constituent part of the duty, there is no need of equity or interpretation: because the subject-matter of degrees of heightenings and diminutions being taken away, there can be no consideration of the manner or the degrees superstructed. When any condition, intrinsically and in the nature of the thing included in an affirmative precept, is destituent or wanting, the duty itself falls without interpretation.

16. Lastly; This rule is to be understood also much more concerning the negative precepts of the religion: because there can be no hinderance to the duties of a negative precept; every man can let any thing alone; and he cannot be forced from his silence or his omission; for he can sit still and die; violence can hinder an action, but cannot effect it or express it: and therefore here is no place for interpretation, much less for dispensation: neither can it be supplied by any action or by any omission whatsoever.

But upon the matter of this second consequent remarked above [p], it is to be inquired, whether in no case a supply of duty is to be made? or whether or no it is not better in some cases, that is, when we are hindered from doing the duty commanded, to do something when we cannot do all; or are we tied to do nothing, when we are innocently hindered from doing of the whole duty?

When we may be admitted to do Part of our Duty, and when to supply it by something else.

17. (1.) Negative precepts have no parts of duty, no degrees of obedience, but consist in a mathematical point; or

[p] Numb. 14.

rather in that, which is not so much; for it consists in that, which can neither be numbered nor weighed. No man can go a step from the severest measure of a negative commandment; if a man do but in his thought go against it, or in one single instance do what is forbidden, or but begin to do it, he is entirely guilty. "He that breaks one, is guilty of all," said St. James; it is meant of negative precepts; and then it is true in every sense relating to every single precept, and to the whole body of the negative commandments. He that breaks one, hath broken the band of all; and he that does sin, in any instance or imaginary degree, against a negative, hath done the whole sin, that is, in that commandment forbidden.

18. (2.) All positive precepts that depend upon the mere will of the lawgiver (as I have already discoursed), admit no degrees, nor suppletory and commutation: because in such laws we see nothing beyond the words of the law, and the first meaning and the named instance; and therefore, it is that 'in individuo' which God points at; it is that, in which he will make the trial of our obedience; it is that, in which he will so perfectly be obeyed, that he will not be disputed with, or inquired of why, and how, but just according to the measures there set down: so, and no more, and no less, and no otherwise. For when the will of the lawgiver is all the reason, the first instance of the law is all the measures; and there can be no product but what is just set down. No parity of reason can infer any thing else, because there is no reason but the will of God, to which nothing can be equal, because his will can be but one. If any man should argue thus:—'Christ hath commanded us to celebrate his death by blessing and communicating in bread and wine; this being plainly his purpose, and I, finding it impossible to get wine, consider that water came out of his side as well as blood, and therefore water will represent his death as well as wine; for wine is but like blood, and water is more like itself; and therefore I obey him better, when in the letter I cannot obey him:'—he, I say, that should argue thus, takes wrong measures; for it is not here to be inquired, which is most agreeable to our reason, but which complies with God's will; for that is all the reason we are to inquire after.

19. (3.) In natural laws and obligations depending upon

true and proper reason drawn from the nature of things, there we must do what we can; and if we cannot do all that is at first intended,—yet it is secondarily intended, that we should do what we can. The reason is, because there is a natural cause of the duty, which, like the light of the sun, is communicated in several degrees, according as it can be received; and therefore whatever partakes of that reason, is also a duty of that commandment. Thus it is a duty of natural and essential religion, that we should worship God with all the faculties of the soul, with all the actions of the body, with all the degrees of intension, with all the instances and parts of extension: for God is the Lord of all; he expects all, and he deserves all, and will reward all; and every thing is designed in order to his service and glorification: and therefore, every part of all this is equally commanded, equally required; and is symbolical to the whole; and therefore, in the impossibility of the performance of any one, the whole commandment is equally promoted by another; and when we cannot bow the knee, yet we can incline the head, and when we cannot give, we can forgive; and if we have not silver and gold, we can pay them with prayers and blessings; and if we cannot go with our brother two miles, we can, it may be, go one, or one half; let us go as far as we can, and do all that is in our power and in our circumstances. For since our duty here can grow, and every instance does according to its portion do in its own time, and measures the whole work of the commandment, and God accepts us in every step of the progression, that is, in all degrees; for he breaks not the bruised reed, and he quenches not the smoking flax; it follows, that though we are not tied to do all, even that which is beyond our powers; yet we must do what we can towards it; even a part of the commandment may, in such cases, be accepted for our whole duty.

20. (4.) In external actions which are instances of a natural or moral duty, if there be any variety, one may supply the other; if there be but one, it can be supplied by the internal only and spiritual. But the internal can never be hindered, and can never be changed or supplied by any thing else; it is capable of no suppletory, but of degrees it is: and if we cannot love God as well as Mary Magdalene loved him, let us love him so as to obey him always, and so as to su-

peradd degrees of increment to our love, and to our obedience; but for this or that expression it must be as it can, and when it can, it must be this or another; but if it can be neither upon the hand, it must be all that is intended upon the heart; and as the body helps the soul in the ministries of her duty; so the soul supplies the body in the essentialities of it and indispensable obedience.

RULE XII.

Not every Thing, that is in the Sermons and Doctrine of Jesus Christ, was intended to bind as a Law or Commandment.

1. EVERY thing that is spoken by our blessed Saviour, is to be placed in that order of things, where himself was pleased to put it.—Whatsoever he propounded to us under the sanction of love, and by the invitation of a great reward, that is so to be understood, as that it may not become a snare, by being supposed in all cases, and to all persons to be a law. For laws are established by fear and love too, that is, by promises and threatenings; and nothing is to be esteemed a law of Christ, but such things which if we do not observe, we shall die, or incur the divine displeasure in any instance or degree. But there are some things in the sermons of Christ, which are recommended to the diligence and love of men; such things whither men must tend and grow. Thus it is required, that we should love God with all our heart; which is indeed a commandment, and the first and the chiefest: but because it hath an infinite sense, and is capable of degrees, beyond all the actualities of any man whatsoever,—therefore it is encouraged and invited further by a reward, that will be greater than all the work that any man can do. But yet there is also the 'minimum morale' in it, that is, that degree of love and duty, less than which is by interpretation no love, no duty at all; and that is, that we so love God, that 1. we love nothing against him; 2. that we love nothing more than him; 3. that we love nothing equal to him; 4. that we love nothing disparately and distinctly from him, but in subordination to him; that is, so as to be apt to yield and

submit to his love, and comply with our duty. Now then, here must this law begin, it is a commandment to all persons, and at all times, to do thus much; and this being a general law, of which all other laws are but instances and specifications, the same thing is in all the particular laws, which is in the general: there is in every one of them a 'minimum morale,' a legal sense of duty, which, if we prevaricate or go less than it, we are transgressors: but then there is also a latitude of duty, or a sense of love and evangelical increase, which is a further pursuance of the duty of the commandment; but is not directly the law, but the love; to which God hath appointed no measures of greatness, but hath invited us forward as the man can go.

2. For it is considerable, that since negative precepts include their affirmatives, and affirmatives also do infer the negatives (as I have already discoursed), and yet they have differing measures and proportions; and that the form of words and signs, negative or affirmative, is not the sufficient indication of the precepts, we can best be instructed by this measure;—There is in every commandment a negative part and an affirmative:—the negative is the first, the least, and the lowest, sense of the law and the degree of duty; and this is obligatory to all persons, and cannot be lessened by excuse, or hindered by disability, or excused by ignorance, neither is it to stay its time, or to wait for circumstances; but obliges all men indifferently. I do not say that this is always expressed by negative forms of law or language, but is by interpretation negative; it operates or obliges as does the negative. For when we are commanded to love our neighbour as ourself; the least measure of this law, the legal or negative part of it, is, that we should not do him injury; that we shall not do to him, what we would not have done to ourselves. He, that does not, in this sense, love his neighbour as himself, hath broken the commandment; he hath done that which he should not do; he hath done that which he cannot justify; he hath done that which was forbidden: for every going less than the first sense of the law, than the lowest sense of duty, is the commission of a sin, a doing against a prohibition.

3. But then there are further degrees of duty than the first and lowest; which are the affirmative measures, that is,

a doing excellent actions and instances of the commandments, a doing the commandment with love and excellence, a progression in the exercise and methods of that piety; the degrees of which, because they are affirmative, therefore they oblige but in certain circumstances; and are under no law absolutely, but they grow in the face of the sun, and pass on to perfection by heat and light, by love and zeal, by hope and by reward.

4. Now concerning these degrees it is that I affirm, that every thing is to be placed in that order of things where Christ left it: and he that measures other men by his own stature, and exacts of children the wisdom of old men, and requires of babes in Christ the strengths and degrees of experienced prelates, he adds to the laws of Christ, that is, he ties where Christ hath not tied; he condemns where Christ does not condemn. It is not a law that every man should, in all the stages of his progression, be equally perfect: the nature of things hath several stages, and passes by steps to the varieties of glory. For so laws and counsels differ, as first and last, as beginning and perfection, as reward and punishment, as that which is simply necessary, and that which is highly advantageous: they differ not in their whole kind; for they are only the differing degrees of the same duty. He that does a counsel evangelical, does not do more than his duty, but does his duty better: he that does it in a less degree, shall have a less reward; but he shall not perish, if he does obey the just and prime or least measures of the law.

5. Let no man, therefore, impose upon his brother the heights and summities of perfection, under pain of damnation or any fearful evangelical threatening; because these are to be invited only by love and reward,—and by promises only are bound upon us, not by threatenings. The want of the observing of this, hath caused impertinent disputes and animosities in men, and great misunderstandings in this question. For it is a great error to think, that every thing spoken in Christ's sermons is a law, or that all the progressions and degrees of Christian duty are bound upon us by penalties as all laws are. The commandments are made laws to us wholly by threatenings; for when we shall receive a crown of righteousness in heaven, that is, by way of gift,

merely gratuitous, but the pains of the damned are due to them by their merit and by the measures of justice: and therefore it is remarkable, that our blessed Saviour said, "When ye have done all that ye are commanded, ye are unprofitable servants;" that is, the strict measures of the laws or the commandments given to you are such, which if ye do not observe, ye shall die according to the sentence of the law; but if ye do, 'ye are yet unprofitable;' ye have not deserved the good things that are laid up for loving souls: but therefore towards that we must superadd the degrees of progression and growth in grace, the emanations of love and zeal, the methods of perfection and imitation of Christ. For by the first measures we escape hell; but by the progressions of love only, and the increase of duty, through the mercies of God in Christ, we arrive at heaven. Not that he that escapes hell, may, in any case, fail of heaven; but that whatsoever does obey the commandment in the first and least sense, will, in his proportion, grow on towards perfection. For he fails in the first, and does not that worthily,—who, if he have time, does not go on to the second.

6. But yet neither are these counsels of perfection left wholly to our liberty, so as that they have nothing of the law in them; for they are pursuances of the law; and of the same nature, though not directly of the same necessity; but collaterally and accidentally they are. For although God follows the course and nature of things, and therefore does not disallow any state of duty that is within his own measures; because there must be a first before there can be a second, and the beginning must be esteemed good, or else we ought not to pursue it and make it more in the same kind; yet because God is pleased to observe the order of nature in his graciousness, we must do so too in the measures of our duty; nature must begin imperfectly, and God is pleased with it, because himself hath so ordered it; but the nature of things, that begin and are not perfect, cannot stand still. God is pleased well enough with the least or the negative measure of the law; because that is the first or the beginning of all; but we must not always be beginning, but pass on to perfection, and it is perfection all the way, because it is the proper and the natural method of the grace to be growing; every degree of growth is not the perfection

of glory; but neither is it the absolute perfection of grace, but it is the relative perfection of it: just as corn and flowers are perfectly what they ought to be, when in their several months they are arrived to their proper stages: but if they do not still grow till they be fit for harvest, they wither and die, and are good for nothing: he that does not go from strength to strength, from virtue to virtue, from one degree of grace to another, he is not at all in the methods of life, but enters into the portions of thorns, and withered flowers, fit for excision and burning.)

7. Therefore, (1.) No man must, in the keeping the commandments of Christ, set himself a limit of duty;—'Hither will I come, and no further:'—for the tree that does not grow, is not alive, unless it already have all the growth it can have: and there is in these things thus much of a law: evangelical counsels are thus far necessary, that although in them, that is, in the degrees of duty, there are no certain measures described; yet we are obliged to proceed from beginnings to perfection.

8. (2.) Although every man must impose upon himself this care, that he so do his duty, that he do add new degrees to every grace; yet he is not to be prejudiced by any man else, nor sentenced by determined measures of another man's appointment: God hath named none, but intends all; and therefore we cannot give certain sentence upon our brother, since God hath described no measures; but intends 'that all,' whither no man can perfectly arrive here; and therefore it is supplied by God hereafter.

9. (3.) But the rule is to be understood in great instances as well as in great degrees of duty; for there are in the sermons of Christ some instances of duties, which although they are pursuances of laws and duty, yet in their own material natural being are not laws,—but both in the degree implied, and in the instance expressed, are counsels evangelical; to which we are invited by great rewards, but not obliged to them under the proper penalties of the law. Such are making ourselves eunuchs for the kingdom of heaven, selling all, and giving it to the poor. The duties and laws here signified are, chastity, charity, contempt of the world, zeal for the propagation of the gospel: the virtues themselves are direct duties, and under laws and punishment; but that

we be charitable to the degree of giving all away, or that we act our chastity by a perpetual celibate, are not laws; but for the outward expression we are wholly at our liberty; and for the degree of the inward grace, we are to be still pressing forwards towards it, we being obliged to do so by the nature of the thing, by the excellency of the reward, by the exhortations of the gospel, by the example of good men; by our love to God, by our desires of happiness, and by the degrees of glory. Thus St. Paul took no wages of the Corinthian churches; it was an act of an excellent prudence, and great charity, but it was not by the force of a general law; for no man else was bound to it, neither was he; for he did not do so to other churches; but he pursued two or three graces to excellent measures and degrees; he became exemplary to others, useful to that church, and did advantage the affairs of religion: and though possibly he might, and so may we, by some concurring circumstances, be pointed out to this very instance and signification of his duty, yet this very instance, and all of the same nature, are counsels evangelical; that is, not imposed upon us by a law, and under a threatening; but left to our liberty, that we may express freely, what we are necessarily obliged to do in the kind, and to pursue forwards to degrees of perfection.

10. These therefore are the characteristic notes and measures to distinguish a counsel evangelical from the laws and commandments of Jesus Christ.

The Notes of Difference between Counsels and Commandments evangelical.

1. Where there is no negative expressed or involved, there it cannot be a law; but it is a counsel evangelical. For in every law there is a degree of duty so necessary, that every thing less than it, is a direct act or state of sin: and therefore, if the law be affirmative, the negative is included, and is the sanction of the main duty. "Honour thy father and mother," that is a law: for the lowest step of the duty there enjoined is bound upon us by this negative, "Thou shalt not curse thy father or mother;" or, 'Thou shalt not deny to give them maintenance, Thou shalt not dishonour them, not slight, not undervalue, not reproach, not upbraid, not be rude or disobedient to them:' whenever such a negative is included,

that is the indication of a law. But in counsels evangelical, there is nothing but what is affirmative. There are some who make themselves eunuchs for the kingdom of heaven: that is the intimation of a religious act or state: but the sanction of it is nothing that is negative, but this only; "He that hath ears to ear, let him hear,"—and, "Qui potest capere, capiat:" "He that can receive it, let him receive it:"—and, "He that hath power over his will, and hath so decreed in his heart, does well."—In commandments it is, 'He that does the duty, does well; he that does not, does ill:' but in counsels it is, 'He that does not, may do well: but he that does, does better:' as St. Paul discourses in the question of marriage[q]; in which instance it is observable, that the comparison of celibate and marriage is not in the question of chastity, but in the question of religion, one is not a better chastity than the other. Marriage is κοίτη ἀμίαντος, 'an undefiled state;' and nothing can be cleaner than that which is not at all unclean; but the advantages of celibate above marriage, as they are accidental and contingent, so they are relative to times and persons and states, and external ministries: for to be made a 'eunuch for the kingdom of heaven,' is the same that St. Paul means by, 'the unmarried careth for the things of the Lord;' that is, in these times of trouble and persecution, they who are not entangled in the affairs of a household, can better travel from place to place in the ministries of the gospel, they can better attend to the present necessities of the church, which are called 'the things of the Lord;' or 'the affairs of the kingdom of heaven:' but at no hand does it mean, that the state of single life is, of itself, a counsel evangelical, or a further degree of chastity, but of an advantageous ministry to the propagation of the gospel. But be it so, or be it otherwise; yet it is a counsel and no law, because it hath no negative part in its constitution, or next appendage.

11. (2.) When the action or state is propounded to us only upon the account of reward, and there is no penalty annexed, then it is a counsel and no law: for there is no legislative power where there is no coercitive: and it is but a precarious government, where the lawgiver cannot make the subject either do good or suffer evil: and therefore the 'jus gladii' and the 'merum imperium' are all one: and he that

[q] 1 Cor. vii.

makes a law and does not compel the involuntary, does but petition the subject to obey, and must be content he shall do it, when he hath a mind to it. But therefore as soon as men made laws, and lived in communities, they made swords to coerce the private, and wars to restrain the public, irregularities of the world.

——— dehinc absistere bello,
Oppida cœperunt munire: et ponere leges,
Ne quis fur esset, neu latro, neu quis adulter[r].

For it was impossible to preserve justice, or to defend the innocent, or to make obedience to laws, if the consuls lay aside their rods and axes: and so it is in the divine laws; the divine power and the divine wisdom make the divine laws, and fear is the first sanction of them: it is the beginning of all our wisdom, and all human power being an imitation of and emanation from the divine power, is in the sum of affairs nothing but this; "Habere potestatem gladii ad animadvertendum in facinorosos homines;" and therefore we conclude it to be no law, to the breaking of which no penalty is annexed: and therefore it was free to St. Paul to take or not to take wages of the Corinthian church; for if he had taken it, it had been nothing but the making of his glorying void; that is, he could not have had the pleasure of obliging them by an uncommanded instance and act of kindness. Hope and reward are the endearment of counsels; fear and punishment are the ligatures of laws.

12. (3.) In counsels sometimes the contrary is very evil:—Thus to be industrious and holy, zealous and prudent, in the offices ecclesiastical, and to take holy orders in the days of persecution and discouragement, is an instance of love, I doubt not, very pleasing and acceptable to God; and yet he that suffers himself to be discouraged from that particular employment, and to divert to some other instance in which he may well serve God, may remain very innocent or excusable: but those in the primitive church, who so feared the persecution or the employment, that they cut off their thumbs or ears to make themselves canonically incapable, were highly culpable; because he that does an act contrary to the design of a counsel evangelical, is an enemy to the virtue and the

[r] Hor. S. i. 3. 105. Gesner.

grace of the intendment: he that only lets it alone, does not indeed venture for the greater reward; but he may pursue the same virtue in another instance or in a less degree, but yet so as may be accepted. He that is diverted by his fear and danger, and dares not venture,—hath a pitiable, but, in many cases, an innocent infirmity; but he that does against it, hath an inexcusable passion; and is so much more blamable than the other, by how much a fierce enemy is worse than a cold friend, or a neuter more tolerable than he that stands in open hostility and defiance. But in laws, not only the contrary, but even the privative, is also criminal: for not only he that oppresses the poor, is guilty of the breach of charity, but he that does not relieve them; because there is in laws an affirmative and a negative part; and both of them have obligation; so that in laws both omissions and commissions are sins; but where nothing is faulty but a contrariety or hostility, and that the omission is innocent, there it is only a counsel.

13. (4.) In internal actions there is properly and directly no counsel,—but a law only: counsels of perfections are commonly the great and more advantageous prosecutions of an internal grace or virtue: but the inward cannot be hindered by any thing from without, and therefore is capable of all increase and all instances only upon the account of love; the greatest degree of which is not greater than the commandment: and yet the least degree, if it be sincere, is even with the commandment: because it is according to the capacity and greatness of the man. But the inward grace, in all its degrees, is under a law or commandment, not that the highest is necessary at all times, and to every person; but that we put no positive bars or periods to it at any time, but love as much as we can to-day, and as much as we can to-morrow, and still the duty and the words to have a current sense: and 'as much as we can' must signify 'still more and more;' now the using of direct and indirect ministries for the increasing of the inward grace, this I say, because it hath in it materiality and an external part, and is directly subjicible to the proper empire of the will, this may be the matter of counsel in the more eminent and zealous instances, but the inward grace directly is not. To be just consists in an indivisible point, and therefore it is always a law; but if to sig-

nify and act our justice we give that which is due, and a great deal more to make it quite sure, this is the matter of counsel; for it is the external prosecution of the inward grace, and although this hath no degrees, yet that hath; and therefore that hath liberty and choice, whereas in this there is nothing but duty and necessity.

RULE XIII.

Some Things may be used in the Service of God, which are not commanded in any Law, nor explicitly commended in any Doctrine of Jesus Christ.

1. This rule is intended to regulate the conscience in all those questions, which scrupulous and superstitious people make in their inquiries for warranties from Scripture in every action they do,—and in the use of such actions in the service of God; for which particulars because they have no word, they think they have no warrant, and that the actions are superstitious. The inquiry then hath two parts;

1. Whether we are to require from Scripture a warrant for every action we do, in common life.

2. Whether we may not do or use any thing in religion, concerning which we have no express word in Scripture, and no commandment at all.

1. Concerning the first the inquiry is but short, because there is no difficulty in it, but what is made by ignorance and jealousy; and it can be answered and made evident by common sense, and the perpetual experience and the natural necessity of things. For the laws of Jesus Christ were intended to regulate human actions in the great lines of religion, justice, and sobriety, in which as there are infinite particulars which are to be conducted by reason and by analogy to the laws and rules given by Jesus Christ; so it is certain that as the general lines and rules are to be understood by reason how far they do oblige, so by the same we can know where they do. But we shall quickly come to issue in this affair. For if for every thing there is a law or an advice; let them that think so find it out and follow it. If there be not for

every thing such provision, their own needs will yet become their lawgiver, and force them to do it without a law. Whether a man shall speak French or English; whether baptized persons are to be dipped all over the body, or will it suffice that the head be plunged; whether thrice or once; whether in water of the spring, or the water of the pool; whether a man shall marry, or abstain; whether eat flesh or herbs; choose Titius or Caius for my friend; be a scholar or a merchant; a physician or a lawyer; drink wine or ale; take physic for prevention, or let it alone; give to his servant a great pension, or a competent;—what can the Holy Scriptures have to do with any thing of these, or any thing of like nature and indifferency?

2. For by nature all things are indulged to our use and liberty; and they so remain till God, by a supervening law, hath made restraints in some instances to become matter of obedience to him, and of order and usefulness to the world; but therefore where the law does not restrain, we are still free as the elements, and may move as freely and indifferently as the atoms in the eye of the sun. And there is infinite difference between law and lawful; indeed there is nothing that is a law to our consciences but what is bound upon us by God, and consigned in Holy Scripture (as I shall in the next rule demonstrate); but therefore every thing else is permitted or lawful, that is, not by law restrained: liberty is before restraint; and till the fetters are put upon us, we are under no law and no necessity, but what is natural. But if there can be any natural necessities, we cannot choose but obey them, and for these there needs no law or warrant from Scripture. No master needs to tell us or to give us signs to know we are hungry or athirst; and there can be as little need that a lawgiver should give us a command to eat, when we are in great necessity so to do. Every thing is to be permitted to its own cause and proper principle; nature and her needs are sufficient to cause us to do that which is for her preservation; right reason and experience are competent warrant and instruction to conduct our affairs of liberty and common life; but the matter and design of laws is "honeste vivere, alterum non lædere, suum cuique tribuere;" or as it is more perfectly described by the Apostle, that we should "live a godly, righteous, sober life;" and be-

yond these there needs no law. When nature is sufficient, Jesus Christ does not interpose; and unless it be where reason is defective or violently abused, we cannot need laws of self-preservation, for that is the sanction and great band and endearment of all laws: and therefore there is no express law against self-murder in all the New Testament; only it is there and every where else by supposition; and the laws take care to forbid that, as they take care of fools and madmen; men that have no use or benefit of their reason or of their natural necessities and inclinations, must be taken under the protection of others; but else when a man is in his wits, or in his reason, he is defended in many things, and instructed in more, without the help or need of laws: nay, it was need and reason that first introduced laws; for no law, but necessity and right reason, taught the first ages,

> Dispersos trahere in populum, migrare vetusto
> De nemore, et proavis habitatas linquere silvas,
> Ædificare domos, laribus conjungere nostris
> Tectum aliud, tutos vicino limine somnos
> Ut collata daret fiducia; protegere armis
> Lapsum, aut ingenti nutantem vulnere civem.
> Communi dare signa tuba, defendier isdem
> Turribus, atque una portarum clave teneri[a];

'to meet and dwell in communities, to make covenants and laws, to establish equal measures, to do benefit interchangeably, to drive away public injuries by common arms, to join houses that they may sleep more safe:' and since laws were not the first inducers of these great transactions, it is certain they need not now to enforce them, or become our warrant to do that, without which we cannot be what we cannot choose but desire to be.

3. But if nothing were to be done but what we have Scripture for, either commanding or commending, it were certain that with a less hyperbole than St. John used, "the world could not contain the books, which should be written;" and yet in such infinite numbers of laws and sentences no man could be directed competently, because his rule and guide would be too big: and every man, in the inquiry after lawful and unlawful, would be just so enlightened, as he that must for ever remain blind, unless he take the sun in his hand to search into all the corners of darkness; no candlestick would

[a] Juvenal, Satyr. 15. 151. Ruperti.

hold him, and no eye could use him. But supposing that in all things we are to be guided by Scripture, then from thence also let us inquire for a conduct or determination even in this inquiry;—Whether we may not do any thing without a warrant from Scripture? And the result will be, that if we must not do any thing without the warrant of Scripture, then we must not for every thing look in Scripture for a warrant; because we have from Scripture sufficient instruction, that we should not be so foolish and importune, as to require from thence a warrant for such things, in which we are by other instruments competently instructed, or left at perfect liberty.

4. Thus St. Paul affirms, "All things are lawful for me;" he speaks of meats and drinks, and things left in liberty, concerning which, because there is no law (and if there had been one under Moses, it was taken away by Christ), it is certain that every thing was lawful, because there was no law forbidding it: and when St. Paul said, "This speak I, not the Lord;" he that did according to that speaking, did according to his own liberty, not according to the word of the Lord; and St. Paul's saying in that manner is so far from being a warranty to us from Christ,—that because he said true, therefore we are certain he had no warranty from Christ, nothing but his own reasonable conjecture. But when our blessed Saviour said, "And why of yourselves do ye not judge what is right?" he plainly enough said, that to our own reason and judgment many things are permitted, which are not conducted by laws or express declarations of God.

Add to this, that because it is certain in all theology, that 'whatsoever is not of faith, is sin," that is, whatsoever is done against our actual persuasion, becomes to us a sin, though, of itself, it were not; and that we can become a law unto ourselves, by vows and promises, and voluntary engagements and opinions,—it follows, that those things which of themselves infer no duty, and have in them nothing but a collateral and accidental necessity, are permitted to us to do as we please, and are in their own nature indifferent, and may be so also in use and exercise: and if we take that which is the less perfect part in a counsel evangelical, it must needs be such a thing as is neither commanded nor commended, for nothing of it is commanded at all; and that which is commended, is the

more not the less perfect part; and yet that we may do that less perfect part, of which there is neither a commandment nor a commendation, but a permission only, appears at large in St. Paul's [t] discourse concerning virginity and marriage. But a permission is nothing but a not prohibiting, and that is lawful which is not unlawful, and every thing may be done, that is not forbidden; and there are very many things which are not forbidden, nor commanded; and therefore they are only lawful and no more.

5. But the case in short is this; In Scripture, there are many laws and precepts of holiness, there are many prohibitions and severe cautions against impiety: and there are many excellent measures of good and evil, of perfect and imperfect: whatsoever is good, we are obliged to pursue; whatsoever is forbidden, must be declined; whatsoever is laudable, must be loved, and followed after. Now if all that we are to do, can come under one of these measures, when we see it, there is nothing more for us to do but to conform our actions accordingly. But if there be many things which cannot be fitted by these measures, and yet cannot be let alone; it will be a kind of madness to stand still, and to be useless to ourselves and to all the world, because we have not a command or a warrant to legitimate an action which no lawgiver ever made unlawful.

6. But this folly is not gone far abroad into the world; for the number of madmen is not many, though possibly the number of the very wise is less: but that which is of difficulty, is this,

Quest. Whether, in matters of religion, we have that liberty as in matters of common life?—or whether is not every thing of religion determined by the laws of Jesus Christ, or may we choose something to worship God withal, concerning which he hath neither given us commandment or intimation of his pleasure?

Of Will-Worship.

To this I answer by several Propositions.

7. (1.) All favour is so wholly arbitrary, that whatsoever is an act of favour, is also an effect of choice, and perfectly voluntary. Since therefore that God accepts any thing from us,

[t] 1 Cor. vii. 6.

is not at all depending upon the merit of the work, or the natural proportion of it to God, or that it can add any moments of felicity to him, it must be so wholly depending upon the will of God, that it must have its being and abiding only from thence. He that shall appoint with what God shall be worshipped, must appoint what that is by which he shall be pleased; which because it is unreasonable to suppose, it must follow that all the integral constituent parts of religion, all the fundamentals and essentials of the divine worship, cannot be warranted to us by nature, but are primarily communicated to us by revelation. "Deum sic colere oportet, quomodo ipse se colendum præcepit," said St. Austin [a]. Who can tell what can please God, but God himself? for to be pleased, is to have something that is agreeable to our wills and our desires: now of God's will there can be no signification but God's word or declaration; and therefore by nothing can he be worshipped, but by what himself hath declared that he is well pleased with: and therefore when he sent his eternal Son into the world, and he was to be the great mediator between God and man, the great instrument of reconciling us to God, the great angel that was to present all our prayers, the only beloved by whom all that we were to do would be accepted, God was pleased with voices from heaven and mighty demonstrations of the Spirit to tell all the world, that by him he would be reconciled,—in him he would be worshipped,—through him he would be invocated,—for his sake he would accept us,—under him he would be obeyed,—in his instances and commandments he would be loved and served; saying, "This is my beloved Son, in whom I am well pleased."

8. (2.) Now it matters not by what means God does convey the notices of his pleasure; ποικίλως, καὶ πολυτρόπως, "in sundry ways and in sundry manners" God manifests his will unto the world: so we know it to be his will, it matters not whether by nature, or by revelation, by intuitive and direct notices, or by argument or consequent deduction, by Scripture or by tradition, we come to know what he requires and what is good in his eyes; only we must not do it of our own head. To worship God is an act of obedience and of

[a] St. August. de Vera Relig. c. 55. Non sit nobis religio in phantasmatibus ænigmatis. Melius est enim qualecunque verum, quam omne quicquid arbitrio cogi potest. Lib. 1. de Consens. Evang. cap. 18.

duty, and therefore must suppose a commandment; and is not of our choice, save only that we must choose to obey. Of this God forewarned his people: he gave them a law [x], and commanded them to obey that entirely, without addition or diminution; neither more or less than it; "Whatsoever I command you, observe to do it; thou shalt not add thereto nor diminish from it:" and again; "Ye shall not do after all the things that we do here this day, every man whatsoever is right in his own eyes:" that is, 'This is your law that is given by God; make no laws to yourselves or to one another, beyond the measures and limits of what I have given you: nothing but this is to be the measure of your obedience and the divine pleasure.' So that, in the Old Testament, there is an express prohibition of any worship of their own choosing; all is unlawful, but what God hath chosen and declared.

9. (3.) In the New Testament we are still under the same charge; and ἐθελοθρήσκεια or 'will-worship' is a word of an ill sound amongst Christians most generally, meaning thereby the same thing which God forbade in Deuteronomy, viz. ἕκαστος τὸ ἀρεστὸν ἐνώπιον αὐτοῦ πράττει, as the LXX. expresses it, "when every man does that" not which God commands or loves, but "which men upon their own fancies and inventions think good," that "which seems good in their own eyes;" or as our blessed Saviour [y] more fully, "teaching for doctrines the traditions, the injunctions or commandments, of men:" the instance declares the meaning. The Pharisees did use to wash their hands before meat, cleanse the outside of cups and dishes, they washed when they came from the judgment-hall; and these they commanded men to do, saying, that by such things God was worshipped and well pleased. So that these two together, and indeed each of them severally, is will-worship in the culpable sense. He that says, 'An action which God hath not commanded, is of itself necessary;'—he that says, 'God is rightly worshipped by an act or ceremony, concerning which himself hath no way expressed his pleasure,'—is superstitious, or a will-worshipper. The first sins against charity; the second against religion: the first sins directly against his neighbour; the second against God: the first lays a snare for his neighbour's foot;

[x] Deut. xii. 32. and 8. [y] Matt. xv. 8, 9. Mark, vii. 7.

the second cuts off a dog's neck, and presents it to God: the first is a violation of Christian liberty; the other accuses Christ's law of imperfection. So that thus far we are certain, 1. That nothing is necessary but what is commanded by God. 2. Nothing is pleasing to God in religion that is merely of human invention. 3. That the commandments of men cannot become the doctrines of God, that is, no direct parts of the religion, no rule or measures of conscience.

10. But because there are many actions, which are not under command, by which God in all ages hath been served and delighted, and yet may as truly be called ἐθελόθρησκεια or 'will-worship' as any thing else, and the name is general and indefinite, and may signify a new religion, or a free-will offering, an uncommanded general or an uncommanded particular, that is, in a good sense, or in a bad, we must make a more particular separation of one from the other, and not call every thing superstitious that is in any sense a will-worship, but only that which is really and distinctly forbidden, not that which can be signified by such a word which sometimes means that which is laudable, sometimes that which is culpable. Therefore,

What voluntary or uncommanded Actions are lawful or commendable.

11. (1.) Those things which men do, or teach to be done, by a probable interpretation of what is doubtful or ambiguous, are not will-worship in the culpable sense.—God said to the Jews, that they should rest, or keep a sabbath, upon the seventh day. How far this rest was to be extended, was to be taught and impressed not by the law, but by the interpretation of it; and therefore when the doctors of the Jews had rationally and authoritatively determined how far a sabbath-day's journey was to extend, they who strictly would observe the measure, which God described not, but the doctors did interpret, all that while were not to be blamed, or put off with a 'Quis requisivit?' 'Who hath required these things at your hands?' for they were, all that while, in the pursuance and in the understanding of a commandment. But when the Jew, in Synesius, who was the pilot of a ship, let go the helm in the even of the sabbath, and did lie still till the next even, and refused to guide the ship, though in danger of ship-

wreck, he was a superstitious fool, and did not expound but prevaricate the commandment. This is to be extended to all probable interpretations so far, that, if the determination happen to be on the side of error, yet the consequent action is not superstitious, if the error itself be not criminal. Thus when the fathers of the primitive church did expound the sixth chapter of St. John's Gospel of sacramental manducation; though they erred in the exposition, yet they thought they served God in giving the holy communion to infants: and though that was not a worship which God had appointed, yet it was not superstition, because it was (or for aught we know it was) an innocent interpretation of the doubtful words of a commandment. From good nothing but good can proceed, and from an innocent principle nothing but what is innocent in the effect. In fine, whatsoever is an interpretation of a commandment, is but the way of understanding God's will, not an obtruding of our own; always provided the interpretation be probable, and that the gloss do not corrupt the text.

12. (2.) Whatsoever is an equal and reasonable definition or determination of what God hath left in our powers, is not an act of a culpable will-worship or superstition.—Thus it is permitted to us to choose the office of a bishop, or to let it alone; to be a minister of the gospel, or not to be a minister. If a man shall suppose that by his own abilities, his inclination, the request of his friends, the desires of the people, and the approbation of the church, he is called by God to this ministry, that he should please God in so doing, and glorify his name, although he hath no command or law for so doing, but is still at his liberty, yet if he will determine himself to this service, he is not superstitious or a will-worshipper in this his voluntary and chosen service, because he determines by his power and the liberty that God gives him, to a service which in the general is pleasing to God; so that it is but voluntary in his person, the thing itself is of divine institution.

13. (3.) Whatsoever is done by prudent counsel about those things which belong to piety and charity, is not will-worship or superstition.—Thus when there is a commandment to worship God with our body; if we bow the head, if we prostrate ourselves on the ground, or fall flat on our face,

if we travel up and down for the service of God, even to weariness and diminution of our strengths, if we give our bodies to be burned, though in these things there is no commandment, yet neither is there superstition, though we design them to the service of God; because that which we do voluntarily, is but the appendage, or the circumstance, or the instance, of that which is not voluntary, but imposed by God.

14. (4.) Every instance that is uncommanded, if it be the act or exercise of what is commanded, is both of God's choosing and of man's; it is voluntary and it is imposed; this in the general, that in the particular. Upon this account, the voluntary institution of the Rechabites in drinking no wine, and building no houses, but dwelling in tents, was pleasing to God; because although he no where required that instance at their hands, yet because it was an act or state of that obedience to their father Jonadab, which was enjoined in the fifth commandment, God loved the thing, and rewarded the men. So David poured upon the ground the waters of Bethlehem, which were the price of the young men's lives; "he poured them forth unto the Lord:" and though it was an uncommanded instance, yet it was an excellent act, because it was a self-denial and an act of mortification. The ἐπίμετρα τοῦ νόμου, the abundant expressions of the duty contained in the law, though they be greater than the instances of the law, are but the zeal of God, and of religion; the advantages of laws, and the enlargements of a loving and obedient heart. Charity is a duty, and a great part of our religion. He then that builds almshouses, or erects hospitals, or mends highways, or repairs bridges, or makes rivers navigable, or serves the poor, or dresses children, or makes meat for the poor, cannot, though he intends these for religion, be accused for will-worship; because the laws do not descend often to particulars, but leave them to the conduct of reason and choice, custom and necessity, the usages of society, and the needs of the world. That we should be thankful to God, is a precept of natural and essential religion; that we should serve God with portions of our time, is so too: but that this day, or to-morrow, that one day in a week, or two, that we should keep the anniversary of a blessing, or the same day of the week, or the return of the month, is an act of our will and choice; it is 'the worship

of the will,' but yet of reason too and right religion. Thus the Jews kept the feast of Purim, the feast of the fourth, the fifth, the seventh, the tenth month, the feast of the dedication of the altar: and Christ observed what the Maccabees did institute: and as it was an act of piety and duty in the Jews to keep these feasts, so it was not a will-worship or superstition in the Maccabees to appoint it, because it was in a pursuance of a general commandment by symbolical but uncommanded instances. Thus it is commanded to all men to pray: but when Abraham first instituted morning prayer, and Isaac appointed in his family the evening prayer, and Daniel prayed three times a day, and David seven times, and the church kept her canonical hours, nocturnal and diurnal offices, and some churches instituted an office of forty hours, and a continual course of prayer, and Solomon the perpetual ministry of the Levites, these all do and did respectively actions which were not named in the commandment; but yet they willingly and choosingly offered a willing but an acceptable sacrifice, because the instance was a daughter of the law, encouraged by the same reward, serving to the same end, warranted by the same reason, adorned with the same piety, eligible for the same usefulness, amiable for the same excellency, and though not commanded in the same tables, yet certainly pleasing to him, who as he gave us laws for our rule, so he gives us his Spirit for our guide, and our reason as his minister.

15. (5) Whatsoever is aptly and truly instrumental to any act of virtue or grace, though it be no where signified in the law of God, or in our religion, is not will-worship in the culpable sense.—I remember to have read that St. Benedict was invited to break his fast in a vineyard: he, intending to accept the invitation, betook himself presently to prayer; adding these words, "Cursed is he, who first eats before he prays." This religion also the Jews observed in their solemn days; and therefore wondered and were offended at the disciples of Christ, because that early in the morning of the sabbath they ate the ears of corn. This and any other of the like nature may be superadded to the words of the law, but are no criminal will-worship, because they are within the verge and limits of it; they serve to the ministries of the chief house. Thus we do not find that David had received

a commandment to build a temple; but yet the prophet Nathan[z] told him from God, that "he did well, because it was in his heart to build it:" it was therefore acceptable to God, because it ministered to that duty and religion, in which God had signified his pleasure. Thus the Jews served God in building synagogues or places of prayer besides their temple; because they were to pray besides their solemn times; and therefore it was well if they had solemn places. So Abraham pleased God in separating the tenth of his possessions for the service and honour of God; and Jacob pleased the Lord of heaven and earth, by introducing the religion of vows; which indeed was no new religion, but two or three excellences of virtue and religion dressed up with order and solemn advantages, and made to minister to the glorification of God. Thus fasting serves religion; and to appoint fasting-days is an act of religion and of the worship of God, not directly, but by way of instrument and ministry. To double our care, to intend our zeal, to enlarge our expense in the adorning and beautifying of churches, is also an act of religion or of the worship of God; because it does naturally signify or express one virtue, and does prudently minister to another: it serves religion, and signifies my love.

16. (6.) To abstain from the use of privileges and liberties, though it be no where commanded, yet it is always in itself lawful, and may be an act of virtue or religion, if it be designed to the purposes of religion or charity.—Thus St. Paul said, "he would never eat flesh, while he did live, rather than cause his brother to offend:" and he did this with a purpose to serve God in so doing; and yet it was lawful to have eaten, and he was no where directly commanded to have abstained; and though in some cases it became a duty, yet when he extended it, or was ready to have extended it, to uncommanded instances or degrees, he went not back in his religion, by going forwards in his will. Thus, not to be too free in using or requiring dispensations, is a good handmaid to piety or charity, and is let into the kingdom of heaven, by being of the family and retinue of the king's daughters, the glorious graces of the Spirit of God. Thus also to deny to ourselves the use of things lawful in meat, and drink, and pleasure, with a design of being

[z] 1 Kings, viii. 18.

exemplar to others, and drawing them to sober counsels, the doing more than we are commanded, that we be not tempted at any time to do less, the standing a great way off from sin, changing our course and circumstances of life, that we may not lose or lessen our state of the divine grace and favour; these are, by adoption and the right of cognation, accepted as pursuances of our duty and obedience to the divine commandment.

17. (7.) Whatsoever is proportionable to the reason of any commandment, and is a moral representation of any duty, the observation of that cannot of itself be superstitious. For this we have a competent warranty from those words of God by the prophet Nathan [a] to David, "Thou shalt not build a house to the honour of my name, because thou art a man of blood." In the prosecution of this word of God, and of the reasonableness of it, it is very warrantable that the church of God forbids bishops and priests to give sentence in a cause of blood; because in one case God did declare it unfit that he who was a man of blood, should be employed in the building of a house to God. Upon this account all indecencies, all unfitting usages and disproportionate states or accidents, are thrust out of religion. A priest may not be a fiddler; a bishop must not be a shoemaker; a judge must religiously abstain from such things as disgrace his authority, or make his person and his ministry contemptible; and such observances are very far from being superstitious, though they be under no express commandment.

18. (8.) All voluntary services, when they are observed in the sense and to the purposes of perfection, are so far from being displeasing to God, that the more uncommanded instances and degrees of external duty and signification we use the more we please God. Οἱ πνευματικοὶ πάντα πράττουσιν ἐπιθυμίᾳ καὶ πόθῳ, καὶ τοῦτο δηλοῦσι τῷ καὶ ὑπερβαίνειν τὰ ἐπιτάγματα, "Spiritual men do their actions with much passion and holy zeal, and give testimony of it by expressing it in the uncommanded instances [b]." And Socrates speaking of certain church-offices and rituals of religion, says, Ἐπειδὴ οὐδεὶς περὶ τούτου ἔγγραφον ἔχει παράγγελμα, δῆλον ὡς καὶ περὶ τούτου τῇ ἑκάστου γνώμῃ καὶ προαιρέσει ἐπέτρεψαν οἱ ἀπόστολοι, ἵνα

[a] 2 Sam. vii. 5. 1 Chron. xxii. 8. xxviii. 3.
[b] St. Chrysost. in Rom. viii.

ἕκαστος μὴ φόβῳ μηδὲ ἐξ ἀνάγκης τὸ ἀγαθὸν κατεργάζοιτο. "Since no man hath concerning this thing any written comment, it is clear that the apostles permitted it to the choice of every one, that every one may do good not by necessity and fear," but by love and choice. Such were the free-will offerings among the Jews which always might expect a special reward: Ἃ γὰρ ὑπὲρ τὴν ἐντολὴν γίνεται, πολὺν ἔχει μισθὸν κατὰ τοῦτο, ἃ δὲ ἐν ἐντολῆς τάξει, οὐ τοιοῦτον, "Those things which are in the tables of the commandment, shall be rewarded; but those which are more than these, shall have a greater." the reason is, because they proceed from a greater intension of the inward grace: and although the measures of the com; mand were therefore less, because they were to fit all capacities,—yet they go further, and show that they are nearer to the perfections of grace than the first and lowest measures of the commandment, and therefore are disposed to receive a reward greater than they shall have who are the least in the kingdom of heaven. But of this I have already given accounts in the foregoing rule, and otherwhere[c].

19. (9.) The circumstance of a religious action may be undertaken or imposed civilly without being superstitious.—As to worship God is a duty which can never be a superstitious will-worship, so to worship God by bowing the head or knee towards the east or west is a circumstance of this religious worship; and of this there may be laws made, and the circumstance be determined, and the whole action so clothed and vested, that even the very circumstance is, in some sense, religious, but in no sense, superstitious; for some way or other it must be done, and every man's act is determined when it is vested with circumstances, and if a private will may determine it, so may a public law, and that without fault: but of this in the sequel.

(10.) The sum is this: though the instance, the act or state be uncommanded, yet it is not culpable will-worship, if either it be a probable interpretation of a divine command ment, or the use of what is permitted, or the circumstance or appendage to virtue, or the particular specification of a general law, or is in order to a grace instrumental and ministering to it, or be the defalcation or the not using of our own rights, or be a thing that is good in the nature of the thing.

[c] Doctrine and Practice of Repentance, chap. 1.

and a more perfect prosecution of a law or grace, that is, if it be a part or a relative of a law: if a law be the foundation, whatsoever is built upon it, grows up towards heaven, and shall have no part in the evil rewards of superstition.

But, that what of itself is innocent or laudable, may not be spoiled by evil appendages, it is necessary that we observe the following cautions.

20. (1.) Whatsoever any man does in an uncommanded instance, it must be done with liberty and freedom of conscience; that is, it must not be pressed to other men as a law which to ourselves is only an act of love, or an instrument of a virtue, or the appendage and relative of a grace. It must, I say, be done with liberty of conscience, that is, without imposing it as of itself necessary, or a part of the service of God: and so it was anciently [d], in the matter of worship towards the east: for though generally the Christians did worship towards the east, yet in Antioch they worshipped towards the west. But when they begin to have opinions concerning the circumstance, and think that abstracting from the order or the accidental advantage, there is some religion in the thing itself, then it passes from what it ought to what it ought not, and by degrees proves folly and dreams. For when it comes to be a doctrine and injunction of men, when that is taught to be necessary which God hath left at liberty, and taken from it all proper necessity; it then changes into superstition and injustice; for it is an invading the rights of God and the rights of man; it gives a law to him that is as free as ourselves, and usurps a power of making laws of conscience, which is only God's subject and God's peculiar. Dogmatizing and censoriousness make a will-worship to be indeed superstition.

In prosecution of this it is to be added, it is as great a sin to teach for doctrines the prohibitions of men, as the injunctions and commandments; to say that we may not do what is lawful, as that it is necessary to do that, which is only permitted, or is commended. He that imposes on men's conscience an affirmative or a negative that God hath not imposed, is equally injurious, and equally superstitious; and we can no more serve or please God in abstaining from what is innocent, than we can by doing what he hath com-

[d] Socrat. lib. 5. cap. 22.

manded. He that thinks he serves God by looking to the east when he prays, and believes all men and at all times to be obliged to do so, is a superstitious man: but he who believes this to be superstition, and therefore turns from the east, and believes it also to be necessary that he do not look that way, is equally guilty of the same folly; and is like a traveller that so long goes from the east, that he comes to it by his long progression in the circle. If by the law of God it be not sinful, or if by the law of God it be not necessary, no doctrines of men can make it so: to call good evil, or evil good, is equally hateful to God: and as every man is bound to preserve his liberty that a yoke be not imposed upon his conscience, and he be tied to do what God hath left free; so he is obliged to take care that he be not hindered, but still that he may do it if he will. That this no way relates to human laws, I shall afterward discourse: I now only speak of imposition upon men's understandings, not upon their wills or outward act. He that says, that without a surplice we cannot pray to God acceptably, and he that says we cannot pray well with it, are both to blame; but if a positive law of our superior intervenes, that is another consideration: for, "quædam, quæ licent, tempore et loco mutato non licent," said Seneca; and so, on the contrary, that may be lawful or unlawful, necessary or unnecessary, accidentally, which is not so in its own nature and the intentions of God.

21. (2.) Whatsoever pretends to lawfulness or praise by being an instrument of a virtue and the minister of a law, must be an apt instrument, naturally, rationally, prudently, or by institution, such as may do what is pretended. Thus although in order to prayer I may very well fast, to alleviate the body and make the spirit more active and untroubled; yet against a day of prayer I will not throw all the goods out of my house, that my dining-room may look more like a chapel, or the sight of worldly goods may not be in my eye at the instant of my devotion: because as this is an uncommanded instance, so it is a foolish and an unreasonable instrument. The instrument must be such as is commonly used by wise and good men in the like cases, or something that hath a natural proportion and efficacy to the effect.

22. (3.) Whatsoever pretends to be a service of God in

an uncommanded instance, by being the specification of a general command, or the instance of a grace, must be naturally and univocally such, not equivocally and by pretension only: of which the best sign is this,—If it be against any one commandment directly or by consequent, it cannot acceptably pursue or be the instance of any other. Thus when the Gnostics abused their disciples by a pretence of humility, telling them that they ought by the mediation of angels to present their prayers to God the Father, and not by the Son of God, it being too great a presumption to use his name and an immediate address to him (as St. Chrysostom, Theophylact, and Œcumenius, report of them),—this was a culpable will-worship, because the relation it pretended to humility, was equivocal and spurious, it was expressly against an article of faith [e] and a divine commandment. So did the Pythagoreans in their pretensions to mortification; they commanded to abstain from marriages, from flesh, from fish, as unclean, and ministries of sin, and productions of the devil. Both these the Apostle reproves in his Epistle to the Colossians; and therefore condemns all things of the same unreasonableness.

23. (4.) All uncommanded instances of piety must be represented by their own proper qualities, effect, and worthiness; that is, if all their worth be relative, they must not be taught as things of an absolute excellency, or if it be a matter of abstinence from any thing that is permitted, and that abstinence be by reason of danger or temptation, error or scandal, it must not be pressed as abstinence from a thing that is simply unlawful, or the duty simply necessary. Thus the Encratites and Manichees were superstitious persons, besides their heresy; because although they might lawfully have abstained from all ordinary use of wine, in order to temperance and severe sobriety, yet when they began to say, that such abstinence was necessary, and all wine was an abomination, they passed into a direct superstition, and a criminal will-worship. While the Novatians denied to reconcile some sort of lapsed criminals, they did it for discipline, and for the interests of a holy life, they did no more than divers parts of the church of God did; but when that discipline, which once was useful, became now to be into-

[e] John, xvi. 23.

lerable, and that which was only matter of government became also matter of doctrine, then they did that which our blessed Saviour reproved in the Pharisees, "they taught for doctrines the injunctions of men," and made their will-worship to be superstition.

24. (5.) When any uncommanded instance relative to a commandment is to be performed, it ought to be done temperately, and according to its own proportion and usefulness; for if a greater zeal invites us to the action, we must not give the reins and liberty to that zeal, and suffer it to pass on as far as it naturally can; but as far as piously and prudently it ought. He that gives alms to the poor, may, upon the stock of the same virtue, spare all vain or less necessary expense, and be a good husband to the poor, and highly please God, with these uncommanded instances of duty: but then he must not prosecute them beyond the reason of his own affairs, to the ruin of his relations, to the danger of temptation. To pray is good; to keep the continual sacrifice of morning and evening devotions is an excellent specification of the duty of 'Pray continually:' now he that prays more frequently does still better; but there is a period, beyond which the multiplication and intension of the duty are not to extend. For although to pray nine times is more than is described in any diurnal or nocturnal office; yet if any man shall pray nine-and-twenty times, and prosecute the excess to all degrees which he naturally can, and morally cannot, that is, ought not,—his will-worship degenerates into superstition; because it goes beyond the natural and rational measures, which though they may be enlarged by the passions of religion, yet must not pass beyond the periods of reason, and usurp the places of other duties civil and religious.

25. If these measures be observed, the voluntary and uncommanded actions of religion, either by their cognation to the laws, or adoption into obedience, become acceptable to God, and by being a voluntary worship, or an act of religion proceeding from the will of man, that is, from his love and from his desires to please God, are highly rewardable: Εἰ γὰρ ἑκὼν τοῦτο πράσσω, μισθὸν ἔχω, said St. Paul; "If I do this thing with a voluntary act of free choice, then I have a reward." And that no man may be affrighted with

those words of God [f] to the Jews,—"Who hath required these things at your hands,"—as if every thing were to be condemned concerning which God could say, "Quis requisivit?" meaning, that 'he never had given a commandment to have done it;' it is considerable, that God speaks not of voluntary, but of commanded services; he instances in such things which himself had required at their hands, 'their sacrifices of bulls and goats, their new-moons and solemn assemblies, their sabbaths and oblations:' but because they were not done with that piety and holiness as God intended, God takes no delight in the outward services: so that this condemns the unholy keeping of a law, that is, observing the body, not the spirit of religion; but at no hand does God reject voluntary significations of a commanded duty, which proceed from a well-instructed and more loving spirit, as appears in the case of vows and free-will-offerings in the law; which although they were will-worshippings, or voluntary services, and therefore the matter of them was not commanded, yet the religion was approved. And if it be objected that these were not will-worshippings, because they were recommended by God in general; I reply, Though they were recommended, yet they were left to the liberty and choice of our will; and if that recommendation of them be sufficient to sanctify such voluntary religion, then we are safe in this whole question; for so did our blessed Saviour in the Gospel, as his Father did in the Law, "Qui potest capere, capiat;" and, "He that hath ears to hear, let him hear;"—and so saith St. Paul [g], "He that standeth fast in his heart—(that is, hath perfectly resolved, and is of a constant temper)—having no necessity, but hath power over his own will, and hath judged in his heart that he will keep his virgin, doth well." But the ground of all is this; all voluntary acts of worship or religion are therefore acceptable, "Quia fundamentum habent in lege divina," "God's law is the ground of them;"—that is the canon; and these will-worshippings are but the descant upon the plain song: some way or other they have their authority and ground from the law of God; for,

26. Whatsoever hath its whole foundation in a persuasion that is merely human, and no ways relies upon the law

[f] Isa. i. 11—13. [g] 1 Cor. vii. 37.

or the expressed will of God, that is will-worship in the criminal sense, that is, it is 'superstition.'—So the vulgar Latin and Erasmus render the word ἐθελοθρησκεία, or 'will-worship;' and they both signify the same thing, when will-worship is so defined: but if it be defined by "a religious passion or excess in uncommanded instances relating to, or being founded in, the law and will of God," then will-worship signifies nothing but what is good, and what is better; it is a free-will-offering, ἀκριβεστάτη αἵρεσις τῆς θρησκείας, like the institution under which St. Paul was educated, "the strictest and exactest sect of the religion;" and they that live accordingly, are ἐκουσιαζόμενοι τῷ νόμῳ, "the voluntary and most willing subjects of the law." So that although concerning some instances it can be said, Τὸ μέν ἐστιν ἐπίταγμα, "This is directly a commandment;" and concerning others, Τὸ δὲ τῆς ἡμῆς προαιρέσεως κατόρθωμα, "This is a virtuous or a right action of my choice;" yet these are no otherwise opposed than as 'in' and 'super;' for the one are ἐν τῆς ἐντολῆς τάξει, "in the order and constitution of the commandment," the other ὑπὲρ τὴν ἐντολήν (as St. Chrysostom expresses it), are "above the commandment:" yet all are in the same form or category: it is within the same limits and of the same nature, and to the same ends, and by the same rule, and of the same holiness, and by a greater love; that is all the difference: and thus it was from the beginning of the world, in all institutions and in all religions, which God ever loved.

27. I only instance in the first ages and generations of mankind, because in them there is pretended some difficulty to the question. Abel offered sacrifice to God, and so did Cain; and in the days of Enoch "men began to call upon the name of the Lord [h];" and a priesthood was instituted in

[h] Multi commentariorum et controversiarum scriptores ex his verbis eliciunt, homines illius seculi novos ritus, novas ceremonias et religionis formas instituisse; quia scilicet certum est, ab exordio humani generis homines Deum coluisse, atque adeò 'invocasse nomen Domini.' Hoc ergo quod quasi de novo factum recensetur, est institutio novorum rituum, quibus quasi de proprio Deum colere voluerunt. At notandum est in horum verborum sensu, nihil esse certum quod ad hanc rem possit perficere. Nam passim, in Hebræorum commentariis, seculum Enoch tanquam impium memoratur: et Hebræi exponere solebant hunc locum quasi sensus esset; 'tunc cum Enoch natus esset, homines profanasse nomen Domini invocando nomen ejus super creaturas,' sic enim verbum חוֹל, derivatum scilicet à voce Colin, i.e. profana, profanasse interpretati sunt: homines scilicet tunc cœpisse appellare filios hominum, et animalia, et herbas, nomine Dei sancti benedicti. Abenezra autem et Abrabanel simpliciorem horum verborum sensum retinuerunt: cœperunt scilicet 'commemorare creatorem suum, et ad nomen ejus opera et rationes dirigere.'

every family, and the 'major-domo' was the priest, and God was worshipped by consumptive oblations: and to this they were prompted by natural reason, and for it there was no command of God. So St. Chrysostom[i]: Οὐ γὰρ περί τινος μαθὼν, οὐδὲ νόμου περὶ ἀπαρχῶν διαλεγομένου ταῦτα ἀκούσας ἀλλ' οἰκοθεν καὶ παρὰ τοῦ συνειδότος διδαχθεὶς, τὴν θυσίαν ἐκείνην ἀνήνεγκε· "Abel was not taught of any one, neither had he received a law concerning the oblation of firstfruits; but of himself and moved by his conscience he offered that sacrifice:"—and[k] the author of the Answers 'ad Orthodoxos' in the works of Justin Martyr affirms, Οὐδεὶς τῶν θυσάντων τὰ ἄλογα θυσίαν τῷ θεῷ πρὸ τοῦ νόμου μετὰ τὴν θείαν διάταξιν ἔθυσε, κἂν φαίνεται ὁ θεὸς ταύτην προσδεξάμενος, τῇ ταύτης ἀποδοχῇ δεικνύων τὸν θύσαντα εὐάρεστον αὐτῷ, "They who offered to God, before the law, the sacrifice of beasts, did not do it by a divine commandment, though God by accepting it gave testimony, that the person who offered it, was pleasing to him." What these instances do effect or persuade, we shall see in the sequel; in the meantime I observe, that they are men of differing persuasions used to contrary purposes. Some there are that suppose it to be in the power of men to appoint new instances and manners of religion, and to invent distinct matters and forms of divine worship; and they suppose that by these instances they are warranted to say, 'that we may in religion do whatsoever by natural reason we are prompted to;' for Abel, and Cain, and Enoch, did their services upon no other account. Others that suspect every thing to be superstitious that is uncommanded, and believe all sorts of will-worship to be criminal, say—that if Abel did this wholly by his natural reason and religion, then this religion, being by the law of nature, was also a command of God; so that still it was done by the force of a law, for a law of nature being a law of God, whatsoever is done by that is necessary, not will-worship, or an act of choice and a voluntary religion.

28. Now these men divide the truth between them. For it is not true that whatsoever is taught us by natural reason, is bound upon us by a natural law: which proposition, although I have already proved competently, yet I shall not omit to add some things here to the illustration of it, as being

[i] 12 de Statuis. [k] Ad Quest. 82.

very material to the present question and rule of conscience. Socinus, the lawyer, affirmed reason to be the natural law, by which men are inclined first, and then determined to that which is agreeable to reason. But this cannot be true, lest we should be constrained to affirm, that God hath left the government of the world to an uncertain and imperfect guide; for nothing so differs as the reasonings of men, and a man may do according to his reason, and yet do very ill. "Sicut omnis citharœdi opus est citharam pulsare, periti vero ac probe docti recte pulsare: sic hominis cujuscunque est agere cum ratione, probi vero hominis est recte cum ratione operari;" so Aristotle[1]: "It is the work of every musician to play upon his instrument; but to play well requires art and skill: so every man does according to reason; but to do righteous things, and according to right reason, must suppose a wise and a good man." The consequent of this is, that reason is not the natural law, but reason when it is rightly taught, well ordered, truly instructed, perfectly commanded; the law is it that binds us to operate according to right reason, and commands us we should not decline from it. He that does according to the natural law, or the law of God, does not, cannot, do amiss: but when reason alone is his warrant and his guide, he shall not always find out what is pleasing to God. And it will be to no purpose to say, that not every man's reason, but right reason, shall be the law. For every man thinks his own reason right, and whole nations differ in the assignation and opinions of right reason; and who shall be judge of all, but God? and he that is the judge must also be the lawgiver, else it will be a sad story for us to come under his judgment, by whose laws and measures we were not wholly directed. If God had commanded the priests' pectoral to be set with rubies, and had given no instrument of discerning his meaning but our eyes, a red crystal or stained glass would have passed instead of rubies: but by other measures than by seeing we are to distinguish the precious stone from a bright counterfeit. As our eyes are to the distinction of visible objects, so is our reason to spiritual, the instrument of judging, but not alone: but as reason helps our eyes, so does revelation inform our reason;

[1] Ethic. lib. 1. cap. 7.—The words, quoted by Bp. Taylor, seem to be a free paraphrase of the original: see Wilkinson's edition, page 22. (J. R. P.)

and we have no law, till by revelation, or some specific communication of his pleasure God hath declared and made a law.

[m] Now all the law of God which we call natural, is reason, that is, so agreeable to natural and congenite reason, that the law is, in the matter of it, written in our hearts before it is made to be a law. "Lex est naturæ vis, et ratio prudentis juris atque injuriæ regulæ;" so Cicero [n]. But though all the law of nature be reason: yet whatsoever is reason, is not presently a law of nature. And therefore that I may return to the instances we are discoursing of, it follows not that although Abel and Cain and Enoch did do some actions of religion by the dictate of natural reason, that therefore they did it by the law of nature: for every good act that any man can do, is agreeable to right reason, but every act we do is not by a law; as appears in all the instances I have given in the explication and commentaries on these two last rules. Secondly, on the other side it is not true, that we may do it in religion, whatsoever we are prompted to by natural reason. For although natural reason teaches us that God is to be loved, and God is to be worshipped, that is, it tells us he is our supreme, we his creatures and his servants; we had our being from him, and we still depend upon him, and he is the end of all who is the beginning of all, and therefore whatsoever came from him must also tend to him; and whosoever made every thing, must needs make every thing for himself,—for he being the fountain of perfection, nothing could be good but what is from, and for, and by, and to, that fountain, and therefore that every thing must, in its way, honour and serve and glorify him:—now I say, although all this is taught us by natural reason, by this reason we are taught

[m] Lex Dei mentem nostram incendens, eam ad se pertrahit, conscientiamque nostram vellicat, quæ et ipsa mentis nostræ lex dicitur. Damascen. lib. 4. cap. 23. de Fide. Ubi Clichtovæus sic exponit, lex mentis nostræ est ipsa naturalis ratio Dei legem habens sibi inditam, impressamque et insitam, quâ bonum à malo interno lumine dijudicamus.—S. Hieronymus epist. 151. ad Algasi. q. 8. hanc legem appellat legem intelligentiæ, quam ignorat pueritia, ne scit infantia, tunc autem venit et præcipit, quando incipit intelligentia.—B. Maximus, tom. 5. Biblioth. contr. 5. cap. 13. Lex naturæ est ratio naturalis, quæ captivum tenet sensum ad delendam vim irrationalem. Hoc dixit imperfectè, quia ratio naturalis, tantùm est materia legis naturalis.—Rectius S. Augustinus, lib. 2. de sermone Domini in monte, Nullam animam esse quæ ratiocinari possit, in cujus conscientia non loquatur Deus: quis enim legem naturalem in cordibus hominum scribit nisi Deus? hoc scilicet innuens non rationem solam, sed Deum loquentem ex principiis nostræ rationis sanxisse legem.—Idem dixit explicatius, lib. 22. contr. Faus. cap. 27. legem æternam esse divinam rationem vel voluntatem ordinem naturalem conservari jubentem, perturbari vetantem.

[n] De Legibus, l. 6. Wagner, p. 27.

that God must be worshipped; yet that cannot tell us how God will be worshipped. Natural reason can tell us what is our obligation, because it can discourse of our nature and production, our relation and minority; but natural reason cannot tell us by what instances God will be pleased with us, or prevailed with to do us new benefits; because no natural reason can inform us of the will of God, till himself hath declared that will. Natural reason tells us we are to obey God; but natural reason cannot tell us in what positive commandments God will be obeyed, till he declares what he will command us to do and observe. So though by nature we are taught, that we must worship God; yet by what significations of duty, and by what actions of religion this is to be done, depends upon such a cause as nothing but itself can manifest and publish.

29. And this is apparent in the religion of the old world, the religion of sacrifices and consumptive oblations; which it is certain themselves did not choose by natural reason, but they were taught and enjoined by God: for that it is no part of a natural religion to kill beasts, and offer to God wine and fat, is evident by the nature of the things themselves, the cause of their institution, and the matter of fact, that is, the evidence that they came in by positive constitution. For 'blood' was anciently the 'sanction' of laws and covenants, 'Sanctio à sanguine' say the grammarians; because the sanction of establishment of laws was it which bound the life of man to the law, and therefore when the law was broken, the life or the blood was forfeited; but then as in covenants, in which sometimes the wilder people did drink blood, the gentler and more civil did drink wine, the blood of the grape; so in the forfeiture of laws they also gave the blood of beasts in exchange for their own. Now that this was less than what was due is certain, and therefore it must suppose remission and grace, a favourable and a gracious acceptation; which because it is voluntary and arbitrary in God, less than his due, and more than our merit, no natural reason can teach us to appease God with sacrifices. It is indeed agreeable to reason that blood should be poured forth, when the life is to be paid, because the blood is the life; but that one life should redeem another, that the blood of a beast should be taken in exchange for the life of a man, that no reason naturally can teach us. "Ego vero destinavi cum vobis in altari

ad expiationem faciendam pro animis vestris: nam sanguis est, qui pro anima expiationem facit," said God by Moses: "The life of the flesh is in the blood; and I have given it to you upon the altar to make an atonement for your souls: for it is the blood that maketh an atonement for the soul." According to which are those words of St. Paul, "Without shedding of blood there is no remission;" meaning, that in the law, all expiation of sins was by sacrifices, to which Christ by the sacrifice of himself put a period. But all this religion of sacrifices, was, I say, by God's appointment; "Ego vero destinavi," so said God; "I have designed or decreed it:" but that this was no part of a law of nature, or of prime essential reason, appears in this, 1. Because God confined it among the Jews to the family of Aaron, and that only in the land of their own inheritance, the land of promise; which could no more be done in a natural religion than the sun can be confined to a village-chapel. 2. Because God did express oftentimes that he took no delight in sacrifices of beasts; as appears in Psalm xl. l. li. and Isa. i. Jer. vii. Hosea, vi. Micah, vi.—3. Because he tells us, in opposition to sacrifices and external rites, what that is which is the natural and essential religion in which he does delight; the "sacrifice of prayer and thanksgiving, a broken and a contrite heart;" that 'we should walk in the way he hath appointed;' that 'we should do justice and judgment, and walk humbly with our God:' 'he desires mercy and not sacrifice, and the knowledge of God more than burnt-offerings.' 4. Because Gabriel the archangel foretold [o] that the Messias should make the daily sacrifice to cease. 5. Because for above sixteen hundred years God hath suffered that nation, to whom he gave the law of sacrifices, to be without temple, or priest, or altar, and therefore without sacrifice.

30. But then if we inquire why God gave the law of sacrifices, and was so long pleased with it; the reasons are evident and confessed. 1. Sacrifices were types of that great oblation which was made upon the altar of the cross. 2. It was an expiation which was next in kind to the real forfeiture of our own lives: it was blood for blood, a life for life, a less for a greater; it was that which might make us confess God's severity against sin, though not feel it; it was

[o] Dan. ix.

enough to make us hate the sin, but not to sink under it; it was sufficient for a fine, but so as to preserve the stake; it was a manuduction to the great sacrifice, but suppletory of the great loss and forfeiture; it was enough to glorify God, and by it to save ourselves; it was insufficient in itself, but accepted in the great sacrifice; it was enough in shadow, when the substance was so certainly to succeed. 3. It was given the Jews ὅπως πιεζόμενοι, καὶ ὑπὸ κλοιοῦ ἀγχόμενοι, τῆς πολυθέου πλάνης ἐκστῶσι, as the author[p] of the Apostolical Constitution affirms, that "being laden with the expense of sacrifices to one God, they might not be greedy upon the same terms to run after many:" and therefore the same author affirms, "before their golden calf, and other idolatries, sacrifices were not commanded to the Jews, but persuaded only;" recommended, and left unto their liberty. By which we are at last brought to this truth; that it was taught by God to Adam, and by him taught to his posterity, that they should in their several manners worship God by giving to him something of all that he had given us; and therefore something of our time, and something of our goods: and as that was to be spent in praises and celebration of his name, so these were to be given in consumptive offerings[q]; but the manner and the measure were left to choice, and taught by superadded reasons and positive laws: and in this sense are those words to be understood, which above I cited out of Justin Martyr and St. Chrysostom. To this purpose Aquinas cites the gloss upon the second of the Colossians, saying, "Ante tempus legis justos per interiorem instinctum instructos fuisse de modo colendi Deum, quos alii sequebantur; postmodum vero exterioribus præceptis circa hoc homines fuisse instructos, quæ præterire pestiferum est:" "Before the law, the righteous had a certain instinct by which they were taught how to worship God, to wit, in the actions of internal religion; but afterward they were instructed by outward precepts." That is, the natural religion consisting in prayers and praises, in submitting our understandings and subjecting our wills, in these things the wise patriarchs were instructed by right reason and the natural duty of men to God: but as for all external religions, in these things they had a teacher and a guide; of these things they were to do nothing of their own

[p] Lib. 6. cap. 18. [q] Numb. vii.

heads. In whatsoever is from within, there can be no will-worship,—for all that the soul can do, is God's right; and no act of faith or hope in God, no charity, no degree of charity, or confidence, or desire to please him, can be superstitious. But because in outward actions there may be indecent expressions or unapt ministries, or instances not relative to a law of God or a counsel evangelical, there may be irregularity and obliquity, or direct excess, or imprudent expressions, therefore they needed masters and teachers, but their great teacher was God. "Deum docuisse Adam cultum divinum, quo ejus benevolentiam recuperaret, quam per peccatum transgressionis amiserat; ipsumque docuisse filios suos dare Deo decimas et primitias," said Hugo de S. Victore; "God taught Adam how to worship him, and by what means to recover his favour, from which he by transgression fell:" the same is affirmed by St. Athanasius[r], but that which he adds, that "Adam taught his children to give firstfruits and tenths," I know not upon what authority he affirms it. Indeed Josephus[s] seems to say something against it; Ὁ θεὸς δὲ ταύτῃ μᾶλλον ἥδεται τῇ θυσίᾳ τοῖς αὐτομάτοις καὶ κατὰ φύσιν γεγόσιν τιμώμενος, ἀλλ' οὐ τοῖς κατ' ἐπίνοιαν ἀνθρώπου πλεονέκτου κατὰ βίαν πεφυκόσι, "God is not pleased so much in oblation of such things which the greediness and violence of man forces from the earth, such as are corn and fruits; but is more pleased with that which comes of itself naturally and easily, such as are cattle and sheep." And therefore he supposes God rejected Cain and accepted Abel, because Cain brought fruits which were procured by labour and tillage; but Abel offered sheep, which came by the easy methods and pleasing ministries of nature. It is certain Josephus said not true, and had no warrant for his affirmative: but that which his discourse does morally intimate, is very right,—that the things of man's invention please not God; but that which comes from him, we must give him again, and serve him by what he hath given us, and our religion must be of such things as come to us from God: it must be obedience or compliance; it must be something of mere love, or something of love mingled with obedience: it is certain it was so in the instance of Abel.

[r] In Epist. de Perfidia Eusebii; et libro super illud, Omnia mihi tradita sunt.
[s] Antiq. Jud. lib. 1. c. 3.

31. And this appears in those words of St. Paul[t], "By faith Abel offered sacrifice:" it was not therefore done by choice of his own head; but 'by the obedience of faith,' which supposes revelation and the command or declaration of the will of God. And, concerning this, in the traditions and writings of the easterlings, we find this story: "In the beginning of mankind, when Eve, for the peopling of the world, was by God so blessed in the production of children, that she always had twins before the birth of Seth, and the twins were ever male and female, that they might interchangeably marry, 'ne gens sit unius ætatis populus virorum,' 'lest mankind should expire in one generation;' Adam being taught by God did not allow the twins to marry, οὓς ἡ μὲν φύσις ἅμα τῇ γενέσει διήρτησε καὶ διέζευξε, 'whom nature herself by their divided birth had separated and divided;' but appointed that Cain should marry the twin-sister of Abel, and Abel should marry Azron the twin-sister of Cain: but Cain thought his own twin-sister the more beautiful, and resolved to marry her. Adam therefore wished them to inquire of God by sacrifice; which they did: and because Cain's sacrifice was rejected, and his hopes made void, and his desire not consented to, he killed his brother Abel; whose twin-sister after fell to the portion of Seth, who had none of his own."—Upon this occasion sacrifices were first offered. Now whether God taught the religion of it first to Adam, or immediately to Cain and Abel, yet it is certain from the Apostle (upon whom we may rely, though upon the tradition of the easterlings we may not) that Abel did his religion from the principle of faith; and therefore that manner of worshipping God did not consist only in manners, but in supernatural mystery; that is, all external forms of worshipping are no parts of moral duty, but depend upon divine institution and divine acceptance: and although any external rite that is founded upon a natural rule of virtue, may be accepted into religion, when that virtue is a law; yet nothing must be presented to God but what himself hath chosen some way or other. "Superstitio est quando traditioni humanæ religionis nomen applicatur," said the gloss[u]: "When any tradition or invention of man is called religion, the proper name of it is superstition;" that is, when any thing is brought into religion and

[t] Heb. xi. [u] In Coloss. ii.

is itself made to be a worship of God, it is a will-worship in the criminal sense. "Hanc video sapientissimorum fuisse sententiam, legem neque hominum ingeniis excogitatam, nec scitum aliquod esse populorum, sed æternum quiddam, quod universum mundum regeret, imperandi prohibendique sapientia. Ita principem legem illam et ultimam, mentem esse dicebant, omnia ratione aut cogentis, aut vetantis Dei," said Cicero [x]; "Neither the wit of man, nor the consent of the people, is a competent warranty for any prime law; for law is an eternal thing, fit to govern the world, it is the wisdom of God commanding or forbidding." Reason indeed is the aptness, the disposition, the capacity and matter, of the eternal law; but the life and form of it are the command of God. "Every plant which my heavenly Father hath not planted, shall be rooted up." Some plants arise from seed, some from slips and suckers, some are grafted, and some inoculated; and all these will grow, and bring forth pleasing fruit; but if it grows wild, that is, of its own accord, the fruit is fit for nothing, and the tree is fit for burning.

RULE XIV.

The Christian Law, both of Faith and Manners, is fully contained in the Holy Scriptures; and from thence only can the Conscience have divine Warrant and Authority.

1. Of the perfection and fulness of the Christian law I have already given accounts; but where this law is recorded, and that the Holy Scriptures are the perfect and only digest of it, is the matter of the present rule, which is of great use in the rule of conscience; because if we know not where our rule is to be found, and if there can be several tables of the law pretended, our obedience must be by chance or our own choice,—that is, it cannot be obedience, which must be voluntary in the submission, and therefore cannot be chance; and it must be determined by the superior, and therefore cannot be our own antecedent choice, but what is chosen for us.

2. That the Holy Scriptures of the Old and New Testament do contain the whole will and law of God, is affirmed

[x] De Legibus, ii. 3. Wagner, p. 48.—Vide Plato. 10. de Leg.

by the primitive fathers, and by all the reformed churches; that the Scriptures are not a perfect rule of faith and manners, but that tradition is to be added to make it a full repository of the divine will, is affirmed by the church of Rome. For the establishing of the truth in this great rule and directory of conscience, I shall first show, as matter of fact, that the church of God, in all the first and best ages, when tradition could be more certain, and assent to it might be more reasonable, did nevertheless take the Holy Scriptures for their only rule of faith and manners. 2. Next, I shall show what use there was of traditions. 3. That the topic of traditions, after the consignation of the canon of Scripture, was not only of little use in any thing, but false in many things, and therefore unsafe in all questions; and as the world grew older, traditions grew more uncertain, and the argument from tradition was intolerably worse.

3. (1.) That the first ages of the church did appeal to Scripture in all their questions, I appeal to these testimonies. —St. Clemens[x] of Alexandria hath these excellent words: *Οὐ γὰρ ἁπλῶς ἀποφαινομένοις ἀνθρώποις προσέχοιμεν, οἷς καὶ ἀνταποφαίνεσθαι ἐπ' ἴσης ἔξεστιν· εἰδ' οὐκ ἀρκεῖ μόνον ἁπλῶς εἰπεῖν τὸ δόξαν, ἀλλὰ πιστώσασθαι δεῖ τὸ λεχθέν· οὐ τὴν ἐξ ἀνθρώπων ἀναμένομεν μαρτυρίαν, ἀλλὰ τῇ τοῦ Κυρίου φωνῇ πιστούμεθα τὸ ζητούμενον, ἥ πασῶν ἀποδείξεων ἐχεγγυωτέρα, μᾶλλον δὲ ἡ μόνη ἀπόδειξις, οὖσα τυγχάνει.* "It is not fit that we should simply attend to the affirmatives of men, for our nay may be as good as their yea. But if the thing be matter of faith, and not of opinion only, let us not stay for a testimony of man, but confirm our question by the word of God; which is the most certain of all, or is indeed rather the only demonstration."—Now that there may be no starting-hole from these words of the saint, I only add this, that it is plain, from the whole order of his discourse, that he speaks only of the word of God written. For the words before are these; "Do they take away all demonstration, or do they affirm that there is any? I suppose they will grant there is some; unless they have lost their senses. But if there be any demonstration, it is necessary that we make inquiry, *καὶ ἐκ τῶν αὐτῶν γραφῶν ἐκμανθάνειν ἀποδεικτικῶς*, 'and from the Scriptures to learn demonstratively.'" And a little after he

[x] Clem. Alex. Stromat. 7.

adds, " They that employ their time about the best things, never give over their searching after truth, *πρὶν ἂν τὴν ἀπόδειξιν ἀπ' αὐτῶν λάβωσι τῶν γραφῶν*, 'until from the Scriptures they have got a demonstration.'" He speaks against the Gnostics, who pretended to secret traditions from I know not who: against them he advises Christians, *καταγήρασαι ταῖς γραφαῖς, ἀποδείξεις ἐπιζητεῖν*, " to wax old in the Scriptures, thence to seek for demonstrations," and by that rule to frame our lives.

4. St. Basil in his Ethics[y]: *Δεῖ πᾶν ῥῆμα ἢ πρᾶγμα πιστοῦσθαι τῇ μαρτυρίᾳ τῆς θεοπνεύστου γραφῆς, εἰς πληροφορίαν μὲν τῶν ἀγαθῶν, ἐντροπὴν δὲ τῶν πονηρῶν*, " Whatsoever is done or said, ought to be confirmed by the testimony of the divinely-inspired Scripture; both for the full persuasion of the good, as also for the condemnation of the evil:" *πᾶν ῥῆμα ἢ πρᾶγμα*, that is, 'every thing' that belongs to faith and manners, not every indifferent thing, but 'every thing' of duty; not every thing of a man, but 'every thing' of a Christian; not things of natural life, but of the supernatural. Which sense of his words clearly excludes the necessity of tradition, and yet intends not to exclude either liberty, or human laws, or the conduct of prudence.

5. To the like purpose is that of Origen[z]: " Debemus ergo ad testimonium verborum, quæ proferimus in doctrina, proferre sensum Scripturæ, quasi confirmantem quem exponimus sensum;" " We ought to bring Scripture for the confirmation of our exposition:" which words of his are very considerable to those, who are earnest for our admittance of traditive interpretation of Scriptures. Concerning which, in passing by (because it will be nothing to the main inquiry, which is not how Scripture is to be understood, but whether being rightly understood, it be a sufficient rule of faith and manners), I shall give this account: that besides there are (I mean in matters of faith, not in matters ritual and of government) no such traditive commentaries; there being no greater variety and difference amongst the ancient and modern writers commonly and respectively in any thing in their expositions of Scripture; no where so great liberty, no where so little agreement; besides this, I say, that they are in commentaries of Scriptures to be looked upon as so many single

[y] Definit. 26. [z] In Matt. tract. 5.

persons, because there was no public authentic commentary any where, no assemblies in order to any such expositions, no tradition pretended for the sense of controverted places; but they used right reason, the analogy of faith, the sense of the words, and the notice of the originals, and so they expounded certainly or probably according as it happened, according to that of St. Athanasius[a]: "Sunt vero etiam multi sanctorum magistrorum libri, in quos si quis incurrat, assequetur quodammodo Scripturarum interpretationem:" "There are many books of the holy doctors, upon which if one chance to light, he may in some measure attain to the interpretation of the Scriptures." But when they (according to Origen's way here described) confirmed an exposition of one place by the doctrine of another, then, and then only, they thought they had the ἀπόδειξις γραφικὴ, 'the Scripture-demonstration,' and a matter of faith and of necessary belief; and that this was the duty of the Christian doctors, Origen[b] does expressly affirm:" "Afterward, as Paul's custom is, he would verify from the Holy Scriptures what he had said; so also giving an example to the doctors of the church, that what they speak to the people should not be of their own sense, but confirmed by divine testimonies: for if he, such and so great an apostle, did not suppose his own authority sufficient warrant to his sayings, unless he make it appear that what he says is written in the law and the prophets,—how much more ought we little ones observe this, that we do not bring forth ours, but the sentences of the Holy Spirit," viz. from Scripture. For that was the practice of St. Paul, whom he in this place, for that very thing, propounds as imitable. And in pursuance of this example and advice, St. Cyril[c] expresses himself perfectly: Μὴ ταῖς ἐμαῖς ὑφεσιολογίαις πρόσεχε, "Attend not to my inventions;" for you may possibly be deceived: but trust no words, ἐὰν μὴ μάθῃς ἐκ τῶν θείων γραφῶν, 'unless thou dost learn it from the divine Scriptures.'"—And more fully yet he speaks in another place[d]: speaking of faith in the holy Trinity, he advises them to "retain that zeal in their mind, which by heads or summaries is lightly expounded to you, but if God grant, shall, according to my strength, be demonstrated to you

[a] Orat. contra Gentes. [b] In cap. iii. Ep. Rom.
[c] St. Cyril. Hierosol. Catech. 12. Illuminatorum. [d] Catech. 4. Illuminat.

by Scripture; δεῖ γὰρ περὶ τῶν θείων καὶ ἁγίων τῆς πίστεως μυστηρίων μηδὲ τὸ τυχὸν ἄνευ τῶν θείων παραδίδοσθαι γραφῶν; 'for it behoves us not to deliver so much as the least thing of the holy mysteries of faith without the divine Scriptures,' nor to be moved with probable discourses. Neither give credit to me speaking, unless what is spoken, be demonstrated by the Holy Scriptures: ἡ σωτηρία γὰρ αὕτη τῆς πίστεως ἡμῶν οὐκ ἐξ εὑρεσιολογίας ἀλλ' ἐξ ἀποδείξεως τῶν θείων ἐστὶ γραφῶν, 'for that is the security of our faith, which is derived not from witty inventions, but from the demonstration of divine Scriptures.'"—"Omne quod loquimur, debemus affirmare de Scripturis Sanctis," said St. Jerome [e]; "Every thing that we speak, we must prove it from the Holy Scriptures;" not every thing absolutely, but every thing of religion, every thing of faith and manners: and if all this be not in the Scriptures, it can have no just authority. "Hoc quia de Scripturis auctoritatem non habet, eadem facilitate contemnitur qua probatur;" "If it have not its warrant from Scripture, it may with as much ease be despised as it was offered [f]." Where though St. Jerome speaks of a particular question, viz. whether Zecharias the son of Barachias were the father of John the Baptist; yet it could not have been applied to this particular, if it had not been true in the general, that every thing of religion may be rejected that is not proved from Scripture. But this is expressly affirmed by St. Chrysostom [g]; "Nam si quid dicitur absque Scriptura, auditorum cogitatio claudicat," &c. "If any thing be spoken without Scripture, the thought of the hearers is lame; sometimes inclining to assent, sometimes declining; sometimes rejecting the opinion as frivolous, sometimes receiving it as probable: but when a testimony of the divine voice proceeds from Scripture, it confirms the speech of him that speaks, and the mind of him that hears."—And upon this account it was, that St. Cyril, of Alexandria, being to dispute with Theodoret concerning some mysterious questions of religion, refused to confer but from the fountains of Scripture. "It became him (says he [h]), being exercised in Scriptures, since his desire was to confer with me about divine mysteries, to speak with us only out of the Holy Scriptures, and so to

[e] In Psal. lxxxix.
[f] Idem in Matt. cap. xxiii.
[g] Homil. in Psal. xcv.
[h] Ad Eunopium.

frame his discourse as becomes holy things." And I should wonder if Theodoret should do otherwise: for he himself[i] brings in the orthodox Christian saying to Eranistes, Μή μοι λογισμοὺς καὶ συλλογισμοὺς ἀνθρωπίνους προσενέγκῃς· ἐγὼ γὰρ μόνῃ πείθομαι τῇ θείᾳ γραφῇ. "Tell not me of your logisms and syllogisms: I rely upon Scripture alone."—In which short sentence he makes provision against all devices of man's inventing; but he establishes a remedy and an affirmative, that is equally strong against all pretension of traditions besides Scripture by saying, that 'Scripture alone is the ground of his confidence, the argument of his persuasion in matters of religion.' But St. Austin[k] establishes the same sufficient and only rule of Scripture and, by way of instance, excludes the authority of councils. "Sed nunc nec ego Nicenum nec tu debes Ariminense, tanquam præjudicaturus, proferre concilium. Neque ego hujus auctoritate neque tu illius detineris: Scripturarum auctoritatibus, non quorumcunque propriis, sed utrisque communibus testibus, res cum re, causa cum causa, ratio cum ratione concertet:" "I ought not to urge the Nicene council, nor you that of Ariminum; as prejudging the question on either side. But let the causes be confronted, argument against argument, matter against matter, thing against thing, by the authorities of Scripture, which are the witnesses common to us both." By which words, if St. Austin's affirmative can prevail, it is certain that nothing ought to be pretended for argument but Scripture in matters of religion. For if a general council, which is the best witness of tradition, the best expounder of Scripture, the best determiner of a question, is not a competent measure of determination,—then certainly nothing else can pretend to it, nothing but Scripture. And if it be replied, that 'this is only affirmed by him in case that two councils are or seem contrary;' I answer, that if councils can be or seem contrary, so that wise and good men cannot competently insist upon their testimony, it is certain a man may be deceived, or cannot justly be determined by any topic but the words and consequences of Scripture; and if this be the only probation, then it is sufficient, that is certain. But that will be a distinct consideration. In the meantime, that which I intend to persuade by these testimonies, is, that the fathers of the primi-

[i] Dialog. 1. c. 5. [k] Contra Maximinum, lib. 3. cap. 14.

tive church did, in all their mysterious inquiries of religion, in all matters of faith and manners, admit no argument but what was derived from Scripture.

6. (2.) Next to this and like it, is, that the primitive doctors did confute all heresies from Scripture; which could no way be done, but that because 'rectum est index sui et obliqui,' 'that which is straight, will demonstrate its own straightness, and the crookedness of that which is crooked.' Scripture must be a rule of all religion and all faith, and therefore sufficient to reprove all vice and every heresy. So Tertullian [m] discourses; "Aufer hæreticis quæ cum ethnicis sapiunt, ut de Scripturis solis quæstiones suas sistant;" "Take from heretics their ethnic learning, that they may dispute their questions out of Scripture only."—To this purpose Origen [n] brings in the precedent of our blessed Lord, from scriptures confuting the heresy of the Sadducees about the resurrection. As Christ did, "sic facient et Christi imitatores exemplis Scripturarum, quibus oportet secundum sanam doctrinam omnem vocem obmutescere Pharaonis;" "so will the followers of Christ do by the examples of Scriptures, which will put to silence every voice of Pharaoh;" that is, every doctrine of the adversaries. Plainer yet are those excellent words of St. Athanasius [o], speaking but of a small part of Scripture, even so much as was sufficient to prove the articles of the Nicene creed: Ἡ γὰρ ἐν αὐτῇ παρὰ τῶν πατέρων κατὰ τὰς θείας γραφὰς ὁμολογηθεῖσα πίστις αὐτάρκης ἐστὶ πρὸς ἀνατροπὴν μὲν πάσης ἀσεβείας, σύστασιν δὲ τῆς εὐσεβείας ἐν Χριστῷ πίστεως· he says, "That faith which the fathers

[l] Vos dicitis, *licet*: nos, *non licet*. Inter *licet* vestrum, et *non licet* nostrum, nutant et remigant animi populorum. Nemo vobis credit, nemo nobis: omnes contentiosi homines sumus: quærendi sunt judices: si Christiani, de utraque parte dari non possunt, quia studiis veritas impeditur. De foris quærendus est judex: si paganus, non potest nosse Christiana secreta: si Judæus, inimicus est Christiani baptismatis. Ergo in terris nullum de hac re reperiri poterit judicium: de cœlo quærendus est Judex. Sed quid pulsamus ad cœlum, cum habeamus hic in evangelio testamentum? Optat. lib. 5. contr. Parmen.—Ego solis eis scriptorum, qui jam canonici appellantur, didici hunc timorem honoremque deferre, ut nullum eorum scribendo errasse audeam credere: alios autem ita lego, ut quantalibet sanctitate doctrinaque polleant, non ideò verum putem, quia ipsi ita senserunt, sed quia mihi vel per illos auctores canonicos, vel probabili ratione, quod à veritate non abhorreat, persuadere potuerunt. S. August. ep. 19. ad Hieronymum.—Si divinarum scripturarum, earum scilicet quæ canonicæ in ecclesia nominantur, perspicuâ aliquid firmatur auctoritate, sine ullâ dubitatione credendum est. Aliis verò testibus vel testimoniis, quibus aliquid credendum esse suadetur, tibi credere vel non credere licet, &c. Ib. Ep. 112. Vide eundem lib. ad Donatistas post collationem cap. 15. et lib. de Unitate Ecclesiæ, cap. 18. et 19. lib. 2. de Baptis. contra Donatistas, cap. 3.

[m] De Resur. Carnis, cap. 3. [n] Tract. 23. in Matt. [o] Epist. ad Epict.

confessed at Nice, according to the Holy Scriptures, was sufficient to reprove all heretical impiety, and to establish our religion or faith in Christ."—And therefore St. Chrysostom [p] compares the Scriptures to a door: *αὐταὶ γὰρ ἡμᾶς προσάγουσι τῷ Θεῷ, καὶ τὴν Θεογνωσίαν ἀνοίγουσιν—οὕτως ἀποκλείει τοῖς αἱρετικοῖς τὴν εἴσοδον*, "for they lead us to God, and open to us the knowledge of God, and keep heretics from entering in."—The metaphor is dogmatical and plain enough without a commentary. The Scripture must be the port, at which every article of faith must go forth, and by which every heresy can be kept from the fold of Christ: "Quæ ignoramus, ex ea discimus:" so Theodoret [q]; "Whatsoever we are ignorant of, we learn from thence."—"Nihil est quod nequeat Scripturis dissolvi:" so Theophylact; "There is no difficulty but may be untied by the Scriptures."

7. The author of the imperfect work upon St. Matthew, usually attributed to St. Chrysostom, discourses pertinently and extremely fully to this article. "Then 'when ye shall see the abomination of desolation standing in the holy place,' that is, when ye shall see impious heresy, which is the army of antichrist, standing in the holy places of the church, in that time 'he which is in Judea, let him flee to the mountains,' that is, they who are in Christianity, let them run to the Scriptures. And why does he command all Christians in that time to run to the Scriptures? Because ever since heresy did infest those churches, there can be no proof of true Christianity, nor any other refuge for Christians who would know the truth of faith, but that of the divine Scripture."—And a little after: "Now by no means can he that desires, come to know which is the true church of Christ, but only by the Scriptures.—Our Lord therefore, knowing that there would be so great a confusion in the last days, commands that all Christians, who would be established in the truth of faith, should fly to nothing but to the Scriptures."—These words, in some editions of the works of St. Chrysostom, are scratched out by a Roman hand, to the regret of some of his own party, and the shame of them that suffered it or are pleased with it. All that I shall say to the book is this, that it is very often urged by the greatest patrons of tradition to serve their ends in many other questions, and

[p] Homil. 58. in Johan. [q] Ad illud [ad docendum] in 2 Tim. iii. ibid.

therefore cannot be rejected upon pretence of not being St. Chrysostom's ; much less upon pretence that it was written or interpolated by an Arian; because the Arians called for Scripture in the use of the word ὁμοούσιος; but, for the thing itself, they offered to be tried by tradition: and so did the Catholics, as it happened, or as the peevishness of their adversaries, or the advantages of the question, did prompt them; but the Catholics and the Arians never did differ upon the question of the sufficiency of Scripture. But as for the book, it is 'liber doctus et minime spernendus,' says Bellarmine[r]; and so is this testimony: and the rather because it is perfectly agreeing with the doctrine of the other fathers.

8. So St. Austin[s]: "Contra insidiosos errores Deus voluit ponere firmamentum in Scripturis, contra quas nullus audet loqui, quoquo modo qui se vult videri Christianum;" "Against treacherous errors God would place our strength in the Scriptures: against which none that would any way seem a Christian, dares to speak." And a little after he adds this example: "When Christ offered himself to Thomas to be handled, 'non illi suffecit nisi de Scripturis confirmaret cor credentium,' 'Christ thought it not enough unless out of the Scriptures he had confirmed the heart of the believers:' 'prospiciebat enim nos futuros,' 'he foresaw that we should come after:' for if they therefore believed because they held and handled him, what do we? Christ is ascended into heaven, not to return but at the end of the world, that he may judge the quick and the dead: whence shall we believe but by that by which he confirmed them who handled him? He opened unto them the Scriptures."—The Scriptures therefore are the great repository and the great security of faith. They are also the great and the only deletory of heresies. So Justus Orgilitanus expounds that of the Canticles,—"Take the little foxes,"—that is, "Convincite hæreticos eorumque versutias sanctarum Scripturarum concludite testimoniis;" "Convince heretics, and restrain their subtleties and crafts, with the testimonies of the Holy Scriptures."—And thus in fact the fathers did conclude against the Gnostics, the Valentinians, the Marcionites, the Manichees, the Photinians, the Arians, the Novatians, Eutychians, Eunomians, Nestorians, Macedonians, and all the priests of Christendom. "Hos

[r] Descript. Eccl. de St. Joh. Chrysost. [s] Tract. 3. in. Epist. Johan.

percussit gladius." 'The word of God is sharper than a two-edged sword;' and the magazines of Scripture were the armories of the church.

9. (3.) "The fathers did reject whatsoever was offered as an article of faith or a rule of manners, that was not in, or could not be proved from, Scriptures:" so Tertullian [t]; "Sed quoniam unum aliquod attigimus vacuæ observationis, non pigebit cætera quoque denotare, quibus merito vanitas exprobranda est, siquidem sine ullius aut dominici aut apostolici præcepti auctoritate fiunt. Hujusmodi enim non religioni, sed superstitioni deputantur, affectata et coacta, et curiosi potius quam rationalis officii:" "If you cannot show the authority of a divine or apostolical precept, your office is not religion, but superstition; not a reasonable service, but curiosity, coaction, or affectation."—Pamelius supposed these words to be very dangerous against ecclesiastical traditions. They are indeed against all such traditions, as either were mere matters of fact without command, or were postnate to the days of the apostles,—of which nature are almost all now in reputation and practice amongst the Romanists. But more fully yet and explicative of the former are those other words of Tertullian [u] against Hermogenes: "Whether all things were made of pre-existing matter, I have no where read; let the school of Hermogenes show where it is written. 'Si non est scriptum, timeat væ illud adjicientibus aut detrahentibus destinatum;' 'If it be not written, let him fear the curse of them that add or detract to or from what is written in the Scriptures.'"—But St. Basil [x] is yet more decretory: Φανερὰ ἔκπτωσις πίστεως, καὶ ὑπερηφανίας κατηγορία, ἢ ἀθετεῖν τι τῶν γεγραμμένων, ἢ ἐπεισάγειν τι τῶν μὴ γεγραμμένων, "It is a manifest defection from the faith, and a conviction of pride, either to reject any thing of what is written, or to introduce any thing that is not."—And therefore in pursuance of this great truth and measure of conscience, he gives [y] this rule, Πᾶν τὸ ἐκτὸς τῆς θεοπνεύστου γραφῆς οὐκ ἐκ πίστεως ὂν ἁμαρτία ἐστίν, "Whatsoever is without Scripture, not derived from thence, is not of faith, and therefore is a sin:"—and therefore every such thing St. Austin [z] accurses; "Si quis sive de Christo, sive de ejus ecclesia, sive de quacunque

[t] De Orat. c. 12. [u] Cap. 22. [x] Homil. de Fide.
[y] In Asceticis, reg. 80. [z] Lib. 3. contra Liter. Petiliani, cap. 6.

alia re, quæ pertinet ad fidem vitamque nostram, non dicam si nos, sed, quod Paulus adjecit, si angelus de cœlo vobis annunciaverit præterquam quod in Scripturis legalibus et evangelicis accepistis, anathema sit;" "If any of us, I will not say, but if any angel (for that St. Paul added), shall say any thing of Christ or of his church, or of any other thing pertaining to faith and our life, except what we have received from the Scriptures of the law and the gospels, let him be anathema."—"Scripturis non loquentibus, quis loquetur?" "If the Scriptures speak not, who will speak?" said St. Prosper[a].—"All things which are delivered to us by the law and the prophets and the apostles, we receive, acknowledge, and confess, neither do we inquire after any thing else: for it cannot be that beside those things which are divinely spoken by the divine oracles of the Old and New Testament, we should say or at all think any thing of God:" so St. Cyril[b]. —These fathers speak dogmatically, generally, and peremptorily: nothing but what is in Scripture; nothing of God, nothing of Christ, nothing of his church, nothing of any thing else. Add to these, that by their doctrine of the sufficiency and sole use and necessity of Scripture in matters of religion, they do exclude by name every thing that pretends against Scripture. So Theophilus Alexandrinus[c]; "Dæmoniaci spiritus est instinctus sophismata humanarum mentium sequi, et aliquid extra Scripturarum auctoritatem sequi;" "It is the instinct of the devil to follow the inventions of men's minds, and to follow any thing without the authority of the Scriptures."—No device, no wit, no argument or invention of man, is to be admitted into religion; nothing but Scriptures: but neither may traditions be received. "Quæ absque auctoritate et testimoniis Scripturarum quasi traditione apostolica sponte reperiunt et confingunt, percutit gladius:" so St. Jerome[d]; "These things which they feign as if they were traditions apostolical, the sword shall smite, if they be without authority and testimonies from Scripture." —And so St. Basil[e] to the question,—'Whether new converts are to be accustomed to the Scriptures;' he answers, "It is fit that every one should, out of the Holy Scriptures,

[a] De Vocat. Gentium in 20. tomo operum Ambros. lib. 2. cap. 3.
[b] Lib. de Trinit. et Persona Christi.
[c] Paschali 2.
[d] In Agge. cap. 1.
[e] In Regul. Brev. Reg. 95.

learn what is for his use; yea, it is necessary, εἴς τε πληροφορίαν τῆς θεοσεβείας, καὶ ὑπὲρ τοῦ μὴ προσεθισθῆναι ἀνθρωπίναις παραδόσεσιν, 'both for the full certainty of godliness, and also that they may not be accustomed to human traditions.'"—Where it is observable, he calls all—'human traditions'—that are not in Scripture; for if there were any divine traditions which are not in Scripture, he ought to have advised the learning of them besides Scripture, for the avoiding of traditions which are not divine: but the Scripture being sufficient for all, whatsoever is besides it is human, and to be rejected. I sum up this particular with an excellent discourse of the same saint, to the same purpose: he asks a question, 'Whether it be lawful or profitable to any one to permit himself to do or to speak what himself thinks right, without the testimony of the Holy Scriptures.' He answers[f] (after the quotation of many places of Scripture), "Who therefore is so mad, that of himself he dare so much as in thought to conceive any thing, seeing he wants the holy and good Spirit for his guide, that he may be directed both in mind, in word, and in action, into the way of truth, or that he may remain blind without our Lord Jesus Christ, who is the Sun of righteousness, &c.? But because of those things which are disputed amongst us, some are determined by the commandment of God in Holy Scripture, others are passed over in silence; as for those things which are written, there is absolutely no power at all given to any one, either to do any of those things which are forbidden, or to omit any of those things which are commanded: since our Lord hath at once denounced and said, 'Thou shalt keep the word which I command thee this day, thou shalt not add to it, nor take from it.' For a fearful judgment is expected, and a burning fire to devour them who dare any such thing. But as for those things which are passed over in silence, the apostle Paul hath appointed us a rule, saying, 'All things are lawful to me, but all things are not expedient; all things are lawful, but all things do not edify: let no man seek to please himself, but every one another's good.' So that it is altogether necessary to be subject to God according to his commandment."—The sum is this, Nothing is matter of duty either in word or deed, in faith or manners, but what is writ-

[f] In Reg. Brev. Reg. 1.

ten in the Scriptures: whatsoever is not written there, it is left to our liberty, and we are to use it as all indifferent things are to be used, that is, with liberty and with charity. Now if concerning such things as these there be any traditions, it matters not: they are no part of our religion, but to be received like laws of man, or customs of which account is to be given in the proper place.

10. (4.) The fathers of the church did affirm the Holy Scriptures to be a sufficient and a perfect rule of faith and manners.—"Adoro Scripturæ plenitudinem," said Tertullian[g], "quæ mihi et factorem manifestat et facta:" "I adore the fulness of Scripture, which declares God and God's works."—His instance is in one article, but that without the rest can be no fulness; as Virgil's Georgics cannot be full, because he tells a few things well of bees and tillage. But I will not choose any authorities concerning which I need to argue; there are enough that are extremely plain, affirmative, and concluding. I instance in Irenæus[h]: "Credere hæc talia debemus Deo qui et nos fecit, rectissime scientes quia Scripturæ quidem perfectæ sunt, quippe à verbo Dei et Spiritu ejus dictæ;" "We know assuredly that the Scriptures are perfect, for they are the word of God, and spoken by the Spirit of God."—But therefore he advises[i], "Legite diligentius id quod ab apostolis est evangelium nobis datum, et legite diligentius prophetas, et invenietis universam actionem, et omnem doctrinam, et omnem passionem Domini nostri prædicatam in ipsis;" "Read the Gospel which the apostles left us, more diligently; read the prophets more diligently, and you shall find declared in them all the doctrine of Christ, all his action, and all his passion." By "universam actionem" he means his life indefinitely, and in general: and certainly the New Testament needs nothing to its being a perfect rule, when it contains all Christ's doctrine, and all his story, viz. so far as concerns us. Εὐαγγελικαὶ γὰρ βίβλοι καὶ ἀποστολικαὶ τῶν παλαιῶν προφητῶν τὰ θεσπίσματα σαφῶς ἡμᾶς, ἅπερ χρὴ περὶ τοῦ θείου φρονεῖν, ἐκπαιδεύουσι, said Constantine the emperor[k]; "The evangelical books, and those of the apostles, and the oracles of the old prophets, do evidently teach us to

[g] Adverś. Hermogen. cap. 22. [h] Lib. 2. cap. 47. [i] Lib. 4. cap 66.
[k] Apud Theodoret. Hist. Eccles. lib. 1. cap. 6. et apud Gelasium Cyzicenum in actis Concil. Nicen. lib. 2. cap. 7.

believe those things which we ought to believe concerning that which is divine."—And therefore St. Athanasius, or whoever is the author of the exhortation to the monks; "Cura in canonicis ponenda est salubriter monumentis, non quod Apocrypha præsertim ignorata debeamus damnare, sed, quod ad scientiam Dei digestam canonis seriem putemus posse sufficere:" "Be careful in reading the canonical Scriptures; not that the Apocryphal (especially before they are known) ought to be rejected, but that we suppose the canon is sufficient" to the knowledge of God. The same with Constantine's περὶ θείου, 'that which is concerning God;' that is, the religion. But more full is that short sentence of St. Athanasius[l]; Αὐτάρκεις μὲν γάρ εἰσιν ἁγίαι καὶ θεόπνευστοι γραφαὶ πρὸς τὴν τῆς ἀληθείας ἐπαγγελίαν, "The holy and divinely-inspired Scriptures are in themselves sufficient for the preaching or enunciation of the truth." To the same purpose are the words of St. Chrysostom[m]; "If there be need to learn any thing, or to be ignorant of any thing, thence we learn; if we would reprove falsehood, thence we draw; if any thing be wanting to correction, to castigation, to comfort, and that we ought to get it, from thence we learn it." Μηδὲ περιμείνῃς ἕτερον διδάσκαλον, ἔχεις τὰ λόγια τοῦ θεοῦ· οὐδείς σε διδάσκει ὡς ἐκεῖνα, "Look for no other teacher, thou hast the oracles of God: none teaches thee like them[n]." He that uses not the Scriptures, but comes into the fold of Christ some other way, that is, appoints a way to himself which the law [of God] hath not established, he is a thief. "For the Scriptures are like a most strong gate, and keep out heretics from entering, and make us altogether sure of all things whatsoever we will[o]:" "of all things," that is, of all things of religion; for that is the subject of the discourse, and explicitly delivered by him in another place. "Quicquid quæritur ad salutem, totum jam adimpletum est in Scripturis," "In the Scriptures fully there is whatsoever is looked for unto salvation[p]." And this is so expressed in an excellent place of St. Austin[q]; "In iis quæ aperte in Scripturis posita sunt, inveniuntur illa omnia, quæ continent fidem moresque vivendi, spem scilicet at-

[l] Orat. contra Gentes: in initio.
[m] Homil. 9. in 2 Tim.
[n] Homil. 9. in Ep. Coloss.
[o] Homil. 58. in Johan.
[p] Homil. 41. op. imperf. in Matt
[q] Lib. 2. cap. 9. de Doctri. Christiana.

que caritatem." More fully yet was that of Abbot Odilo[r], of the Cluniac order: "Omnis ratio, qua vel Deum vel nos cognoscimus, divinis libris continetur;" in those things which are openly or plainly placed in the Scriptures, all things are to be found which contain faith, and the manners of life, viz. hope and charity; "Every measure or manner by which we know God or ourselves, is contained in the divine books." What can be more plain or more affirmative? But St. Austin[s] says the same thing over and over; "Legite Sacram Scripturam, in qua quid tenendum et quid fugiendum sit, plene invenietis;" "Read the Holy Scriptures; in which ye shall [perfectly, or] fully find what is to be held, what is to be avoided."—And again[t]: "Sancta Scriptura nostræ doctrinæ regulam figit," "The Holy Scripture fixes or limits the rule of our doctrine." "In hoc volumine cuncta, quæ ædificant, omnia quæ erudiunt, scripta continentur;" saith St. Gregory[u], bishop of Rome; "In this volume, whatsoever can instruct us, whatsoever can edify us, is contained." *Πάντα τὰ παραδεδομένα ἡμῖν διά τε νόμου καὶ προφητῶν καὶ ἀποστόλων καὶ εὐαγγελιστῶν δεχόμεθα καὶ γινώσκομεν καὶ σέβομεν, οὐδὲν περαιτέρω τούτων ἐπιζητοῦντες*, said St. Damascen[x]; "All things delivered to us by the law and the prophets, the apostles and evangelists, we receive and know and reverence, looking for nothing beyond these." And 'to bring in any thing that is a stranger to Scripture,' Theodoret[y] calls it 'an extinguishing of the Spirit;' something contrary to that duty whereby we are obliged to stir up the grace of God we have received. "For the church of Christ dwells in and possesses assemblies in all the world, being joined by the unity of the Spirit, and hath cities of the law and the prophets, of the gospel and apostles, she departs not out of her own bounds, that is, from the Holy Scriptures, but retains her first possession;" so St. Jerome[z]. And in his commentary on Psal. lxxxvi. (if he be the author of it, as Rupertus affirms), expounding those words, 'Dominus narrabit in scriptura populorum et principum horum qui fuerunt in ea,' he says, 'et principum,' "hoc est, apostolorum et evangelistarum:" 'horum qui fuerunt in ea;' "videte quid dicat, 'qui

[r] Collat. lib. 1. cap. 1.
[s] De Bono Viduit. cap. 1.
[t] Lib. de Ortho. Fide, cap. 1.
[u] In Michæ. cap. 1.
[x] Serm. 38. ad Fratres in Eremo.
[y] Homil. 9. in Ezek.
[z] In Levit. q. 9.

fuerunt,' non 'qui sunt,' ut exceptis apostolis, quodcunque aliud postea dicitur, abscindatur, non habeat postea auctoritatem. Quamvis ergo sanctus sit aliquis post apostolos, quamvis disertus sit, non habet auctoritatem, quoniam Dominus narrat in scriptura populorum et principum qui fuerunt in ea:" "'The princes of the people,' that is, the apostles and evangelists: 'of them which have been in her;' which *have been*, not which *are* in her; that excepting what the apostles say, every thing after them may be cut off, it hath no authority. For if there be any wise man, any saint, after the apostles, he hath no authority; because our Lord saith in the Scripture or writing of the princes that have been in her."—"Sufficit divina Scriptura ad faciendum eos, qui in illa educati sunt, sapientes, et probatissimos, et sufficientissimam habentes intelligentiam; indigemusque ad hoc prorsus nihil externis magistris:" so St. Cyril[a] of Alexandria: "The divine Scripture is sufficient to make them, who are educated in it, wise and most approved, and having a most sufficient understanding, and besides this we need no external masters."—To the same purpose is that of Anastasius[b] of Antioch: "Quod quæ silentio præteriit Scriptura divina, non sint scrutanda, perspicuum: omnia enim, quæ faciunt ad nostram utilitatem, dispensavit et administravit Spiritus Sanctus:" "It is manifest that those things are not to be inquired into, which the Scripture hath passed over with silence. For the Holy Spirit hath dispensed to us and administered all things, which conduce unto our profit." "Quicquid est de verbo Dei, quicquid sciri vel prædicari oportet, de incarnatione, de vera divinitate et humanitate filii Dei, duobus ita continetur Testamentis, ut extra hæc nihil sit quod annunciari debeat aut credi. Totum in his comprehenditur cœleste oraculum, quod tam firmiter scire debemus, ut extra hæc audire neque hominem nobis liceat, neque angelum[c]:" "Whatsoever is of the word of God, whatsoever ought to be known or preached of the incarnation, of the true divinity and humanity of the Son of God, is so contained in both the Testaments, that, besides these, there is nothing that may be believed or preached. All the whole celestial oracle is comprehended in these, which we

[a] Lib. 7. contra Julian. [b] Lib. 8. Anagogicæ Contempl. in Hexameron.
[c] Rupert. Abbas Tuitiencis Comment. in lib. Regum, lib. 3. cap. 12.

must so firmly believe, that, besides these, it is not lawful for us to hear either man or angel:" and indeed it were not to be imagined, how the Scripture should be a canon or rule to Christians, if it were so imperfect that it did not contain the measures of faith and manners. Κανών ἐστι μέτρον ἀδιάψευστον, πᾶσαν πρόσθεσιν καὶ ἀφαίρεσιν οὐδαμῶς ἐπιδεχόμενον, said Varinus; "A rule or canon is an unerring measure, which at no hand can receive addition or suffer diminution." And St. Basil[d] reproved the heretic Eunomius for folly besides his false doctrine, because that he affirmed tradition of the fathers to be the gnomon or canon of faith, and yet said, προσθήκης ἀκριβεστέρας δεῖσθαι, "that it wanted some additament to make it exact;" one part contradicts the other. Ὁ κανὼν οὔτε πρόσθεσιν οὔτε ἀφαίρεσιν δέχεται, ἐπεὶ τὸ κανὼν εἶναι ἀπόλλυσι, saith St. Chrysostom[e], "If any thing be put to it, or taken from it, it ceases to be a canon."—And therefore Scriptures are not the Christian canon, they are not canonical, if they need to be supplied by traditions. The same is also affirmed by Œcumenius, and the very words of Chrysostom are transcribed by Theophylact.

11. (5.) Whatsoever Christ taught to his apostles by his sermons, and by his Spirit, all that the apostles taught to the church, and set it down in writing.

This we learn from St. Irenæus[f]; "Non per alios dispositionem salutis nostræ cognovimus quam per eos per quos evangelium pervenit ad nos, quod quidem hinc præconiaverunt, postea vero per Dei voluntatem in Scripturis nobis tradiderunt, fundamentum et columnam fidei nostræ futurum:" "We have known the economy of our salvation by no other but by those by whom the gospel came to us; which truly they then preached, but afterward by the will of God delivered to us in the Scriptures, which were to be the pillar and ground to our faith;" viz. what the church was afterward to minister, the Scriptures did consign, and both of them were pillars and grounds of faith, the church λειτουργικῶς, the Scriptures αὐθεντικῶς, the church by way of 'ministry,' the Scriptures by their 'authority.' To this purpose are those words of St. Austin[g]; "Cum multa fecisset Dominus Jesus, non omnia scripta sunt, sicut idem ipse sanctus evangelista

[d] Lib. 1. contr. Eunomium.
[e] Homil. 13. in iii. Philip.
[f] Lib. 3. cap. 1.
[g] Tract. 49. in Johan.

testatur, multa Dominum et dixisse et fecisse quæ scripta non sunt: electa sunt autem quæ scriberentur quæ saluti credentium sufficere videbantur:" "Our Lord Jesus did do many things which are not written: and the holy evangelist does witness that he both did and spake many things which are not written: but those things which were seen to suffice to the salvation of believers, were chosen to be written." And therefore St. Austin[g] and Optatus[h] compare the Scriptures to the will of the testator: concerning his goods the kindred may strive, one affirming this, and another that; but 'proferte tabulas,' show the will, peruse the writings; then the judge listens, the advocates are silent, the people are in suspense, the litigants wait: let the testator's words be read, that must end all contention. Now this will was therefore consigned in writing, that when our testator was gone from us, we might not doubt concerning his legacies and his commandments. The same is by Nicephorus particularly affirmed of St. Paul, "Quæ præsens oratione sua dilucide docuerat, eadem per compendium absens in memoriam revocans per epistolas dedit:" "The things which he plainly and explicitly preached, he being absent, to recall into their memory what he had delivered, set them down in his epistles as in a summary." And St. Peter having (as appears in his Epistle) promised to do something to put them in mind after his decease (meaning to remind them of the doctrine delivered) caused St. Mark to write this Gospel.

12. Thus I have sufficiently demonstrated the rule so far as this topic can extend;—this is by matter of fact, and the doctrine of the church. For if tradition be regardable, then that the Scriptures are a sufficient and a perfect rule of faith and manners, is competently proved by that, which our adversaries in this question pretend to regard: but if tradition be not considerable, then the Scriptures alone are; and there is indeed no tradition so clear, so regular, so irreprovable as those which are concerning Scripture. That these books are Scripture, that is, the written word of God, and that the written word of God is all that we have of God's will,—is universally delivered by the Christian; and of that which of late is questioned, I have given a specimen: for if the concurrent testimony of so many fathers cannot persuade this

[g] Exposit. 2. Psal. xxi. [h] Contr. Parmen. lib. 5. [i] Lib. 2. Hist. cap. 34.

article, then the topic of tradition will be wholly useless in all questions; but if they can, as indeed they ought, in this question, then we are fixed upon this great rule of conscience; —the Holy Scriptures are the great rule of conscience, both in doctrines of faith, and in doctrines of manners.

13. (2.) The next inquiry is, what use there is of traditions,—and if they cannot be a part of the rule, what aids do they bring to the conscience in faith or manners?

14. (1.) To this I answer, that tradition is of great use for the conveying of this great rule of conscience, the Holy Scriptures of the Old and New Testament. For when I affirm that the Holy Scriptures are a perfect rule of faith and manners, that is, that they contain all the word of God,—it is to be understood, that it is a rule, a perfect rule to them, who believe them to be the word of God. For the question is not, whether Scriptures be a rule, but whether they be a perfect rule: not whether they be the word of God, but whether they be all the word of God, that is of necessity to be preached to the church. So that the traditions concerning Scripture itself, being extrinsical to Scripture, are also extrinsical to the question: and supposing that tradition were the only instrument of conveying Scripture to us, yet that tradition must not, cannot, possibly be any part of the question; for Scripture must be supposed as delivered to us and accepted for the word of God, before we can inquire, whether this Scripture, so delivered, be all the word of God or no. And indeed tradition of Scripture is the hand, that reaches forth this repository of the divine word, but itself is not directly any part of it, it ministers to the will of God, but is no part of the matter of it: and therefore, the common pretence for the necessity of tradition besides Scripture (because by universal tradition we understand these to be the books of Scripture) will come to nothing,—because the question of the plenitude of Scripture is after the admission of that tradition, which reports Scripture to us to be the word of God: but it matters not, how or why we believe it, whether by universal or particular tradition, whether because my priest tells me so or my father, whether I am brought into it by reason or education, by demonstrative or by probable inducements; if it be believed heartily, it is sufficient: and then it is that we affirm the Scriptures so believed to be the word of God, to

be a perfect rule of all that we are to think or speak or do in order to salvation.

15. (2.) Besides this, to inquire of what use traditions are, is to no purpose for us, for there is no tradition of any doctrine of faith or rule of life, but what is in Scripture; but if there were, traditions would be of the same use as Scripture is, if the tradition were from Christ and his apostles, and were as certain, as universal, as credible, as that is by which we are told that Scripture is the word of God. For the word which is now written was first delivered, that which is now Scripture, was at first tradition; and because it was afterward called so, it hath been made use of by these persons, who,—knowing that the change of words in descending ages is least discerned by mankind, and that from words which are fewer than things, most advantages can be made by them, who love every thing better than truth,—have pretended every saying of the Scripture and fathers, in which 'tradition' is used, to be a competent argument of the imperfection of Scripture, and of the necessity of a supply to be made by tradition.

16. Παράδοσις, 'Tradition,' is any way of communicating the notice of a thing to us: Παρέδωκα ὑμῖν ὅτι Χριστὸς ἀπέθανεν ὑπὲρ τῶν ἁμαρτιῶν ἡμῶν, "I have delivered to you that Christ died for our sins." But this tradition is also in Scripture; so St. Paul adds, that Christ died for our sins, κατὰ τὰς γραφὰς, "according to the Scriptures[k];" and he commands the Thessalonians to preserve the traditions, which they had learned from his mouth or from his hand, from his preaching or his writings: and this use of the word continued in the church for divers ages, even till all traditions that were not in Scripture, were lost, or made uncertain. "Si ergo aut evangelio præcipitur, aut in apostolorum epistolis aut actibus continetur—observetur divina hæc et sancta traditio:" so St. Cyprian[l]: "If this be commanded in the gospel, or be contained in the epistles or Acts of the Apostles, let this divine and holy tradition be observed."—Such was that which St. Basil calls[m], παράδοσιν τοῦ βαπτίσματος, "the tradition of baptism," αὐτοῦ τοῦ Κυρίου ἐν τῇ παραδόσει τοῦ σωτηρίου βαπτίσματος παραδεδωκότος τὴν τάξιν, "our Lord himself having delivered or given the order in the tradition of baptism."—

[k] 1 Cor. xv. [l] Epist. 74. ad Pompei. [m] Lib. 3. contra Eunom.

and St. Irenæus [n] calls it a tradition apostolical, "Christum accepisse calicem, et dixisse sanguinem suum esse," &c. "that Christ took the cup, and said it was his blood; and that the barbarians did diligently keep the tradition," "credentes in unum Deum et in Christum qui natus est ex Virgine,"—"believing in one God and in Christ who was born of a virgin."—Such traditions as these the whole church had before the consignation of Scripture-canon, and she retained them better by help of Scriptures. Tradition is a giving or delivering of it; and so long as it is a tradition of God, it is well enough: but if it comes to be your traditions, there is in them nothing of divinity, nothing of that authority which is to prescribe in faith and holiness. So that, in short, the thing is this:

If God, by his Son, or by his apostles, or any way else, hath taught his church, there is no disputing of it; let it be made appear, that it is a tradition of God, whether written or unwritten, it matters not. If it cannot be made to appear, then 'idem est non esse et non apparere,' it is not obliging to us: we cannot follow the light of a candle, that is hid in a dark lantern, or thrust into a bushel. But that there is nothing of faith and manners which the church of God ever did hold necessary, or ought to have held necessary, but what is in the Scriptures,—I have already largely proved, and shall, in the consequents, illustrate with other collateral lights.

17. (1.) In the meantime it ought to be known, that, in the first ages of the church, the fathers, disputing with heretics, did oftentimes urge against them the constant and universal tradition of the church; and it was for these reasons. 1. Because the heretics denied the Scriptures: so did the Manichees reject the four Gospels; Ebion received only St. Matthew's Gospel, Cerinthus only St. Mark, Marcion only St. Luke, and not all of that; Valentinus none but St. John, but the Alogi received all but that; Cerdo, Cerinthus, Tatianus, and Manichæus, rejected the Acts of the Apostles; the Ebionites all St. Paul's Epistles; the church of Rome for a long time rejected the Epistle to the Hebrews, so did Marcion; others also refused to admit the Epistles of St. James and St. Jude, the Second of St. Peter, the Second and Third of St. John, as we learn from Eusebius [o] and St. Jerome [p]. Now to

[n] Lib. 3. cap. 4. [o] Lib. 3. Hist. cap. 25. [p] Lib. de Viris Illustr.

such men as these, and in all the interval till the whole canon was consigned and accepted, it was of great use to allege tradition, especially because the doctrine of the Scriptures was entirely and holily preached in all the apostolical churches, and by the known and universally-preached doctrines they could very well refute the blasphemies of wicked and heretical persons. But in all this here is no objection; for all this tradition was nothing else but the doctrine of the Holy Scriptures.

18. (2.) The heretics did rely upon this topic for advantage, and would be tried by tradition; as hoping because there were, in several churches, contrary customs, there might be differing doctrines, or they might plausibly be pretended; and therefore the fathers had reason to urge tradition, and to wrest it from their hands, who would fain have used it ill. Thus did the Carpocratians in Irenæus[q]; "When they are reproved from Scripture, they accuse the Scriptures, as if they were not right, as if they had no authority, as if from them truth could not be found by them that know not tradition: for they affirm that Jesus spake some things in mystery to his disciples apart, and that they required that they might deliver them to the worthy, and to them that would assent to them."—Upon this pretence Artemon exposed his errors, saith Eusebius[r], and Papias introduced the Millenary heresy; and by tradition the Arians would be tried, and St. Basil[s] was by them challenged in an appeal, πρὸς τὴν συνήθειαν, "to custom or tradition;" and by this Eunomius did suppose he had prevailed; and St. Austin[t] affirms, that all the most foolish heretics pretend for their most senseless figments those words of our blessed Saviour, "I have yet many things to say unto you, but ye cannot bear them now." And to this purpose was that which the Basilidians did affirm; that 'the mysteries of their sect were no things of public notice, but conveyed in secret.'—Now to such as these there were but two ways of confutation: one was, which they most insisted upon, that the Holy Scriptures were a perfect rule of faith and manners, and that there was no need of any other tradition; the other, that the traditions which they pretended, were false; and that the contrary was the doctrine, which all

[q] Lib. 2. cap. 2. et 24.
[r] Hist. lib. 5. c. 27.
[s] St. Basil. lib. 2. contr. Eunom.
[t] Tract. 97. in Johan.

the churches of God did preach always. Now thus far tradition was useful to be pleaded; that is, though the heretics would not admit the doctrine of Christianity as it was consigned in Scripture, yet they might be convinced that this was the doctrine of Christianity, because it was also preached by all bishops and confessed by all churches. But in all these contests the fathers did not pretend to prove by tradition what they could not prove by Scripture; but the same things were preached which were written, and no other articles of faith, no other rules and measures of good life: only because they did not consent in the authority of one instrument, they ought to be convinced by the other.

19. (3.) There is yet one use more of traditions, but it is in rituals, and in such instances, concerning which St. Paul wrote to the Corinthians these words; "The rest will I set in order when I come."—Such are, 1. The observation of the Lord's day, solemnly once a year, and less solemnly once a week, that is, the feast of Easter, and the weekly Sunday; 2. The government of the church by bishops, which is consigned to us by a tradition greater than some books of Scripture, and as great as that of the Lord's day: and that so notorious, that thunder is not more heard than this is seen in all the monuments of antiquity; 3. Offices ecclesiastical to be said and done by ecclesiastical persons: such as are, the public prayers of the church, the consecration of the blessed eucharist, the blessing of the married pairs and joining them in the holy and mysterious rite of marriage, the consecration of bishops by bishops only, and of priests by bishops and presbyters,—though for this last there is not so universal tradition, that every where requiring the imposition of the bishop's hand, and but in some places requiring the assistance of the presbyters. These three are the most universal and apostolical traditions, which although they also have great grounds in Scripture, yet because the universal practice and doctrine of the church of God in all ages and in all churches primitive is infinitely evident and notorious, less liable to exception, and an apt commentary upon the certain but less evident places of Scripture, therefore these may be placed under the protection of universal tradition; for they really have it beyond all exception. And although in these the Scripture is sufficient to all wise and good men,

to all that are willing to learn and obey, and not desirous to make sects and noises;—yet because all men are not wise and good and disinteresed, tradition in these things is to Scripture as a burning-glass to the sun, it receives its rays in a point, and unites their strength, and makes them burn as well as shine; that is, it makes them do that, which in their own nature they are apt to do, and from doing which they are only hindered accidentally.

20. By these instances it is evident, that we ought not to refuse tradition when it is universal; nor yet believe, that, in any thing of great concernment, though it be but matter of rite and government, the Scripture is defective; for in these things we admit tradition to be the commentary, but Scripture to be the text: *πάντα σύμφωνα ταῖς γραφαῖς*, as Irenæus[u] in Eusebius expresses it, "all must be agreeable to Scripture."—And although a tradition so absolutely universal as these, were a warranty greater than any objection can be against them, and were to be admitted though they had not express authority in Scripture, as all these have; yet that even these things also are in Scripture, is a very great argument of the perfection of it.

21. For all other things the Scripture is abundant, and whatever else is to be used in the externals and appendages of religion, the authority of the church is a sufficient warranty, as I shall prove in its proper place. But if, in these externals, there be a tradition, according to the degree of its antiquity and universality, so it puts on degrees of reasonableness, and may be used by any age of the church: and if there be nothing supervening that alters the case, it is better than any thing that is new; if it be equally fit, it is not equally good, but much better.

22. This is all the use, which is, by wise and good men, made of traditions, and all the use which can justly be made by any man; and besides the premises this will be yet further apparent, that although there are some universal practices, which ever were and still are in all churches, which are excellent significations of the meaning of these scriptures, where the practices are less clearly enjoined, yet there are no traditive doctrines distinct from what are consigned in

[u] Lib. 5. cap. 20.

Scripture. And this I shall represent in the third particular, which I promised to give account of, viz.

23. That the topic of tradition, after the consignation of the canon of Scripture, was not only of little use in any question of faith or manners, but falsely pretended for many things, and is unsafe in all questions of present concernment.

24. In order to the proof of this, I divide the great heap of traditions, which are shovel'd together by the church of Rome, into three little heaps: 1. Of things necessary or matters of faith; 2. Of things impertinent to the faith and unnecessary; 3. Of things false.

25. The traditions of things necessary, are the trinity of persons,—the consubstantiality of the eternal Son of God with his Father,—the baptism of infants,—the procession of the Holy Ghost from the Son,—and original sin,—that the Father was not begotten,—that the Holy Ghost is God, and to be invocated,—that baptism is not to be reiterated,—that in Christ there are two natures and one person.—Now that these be appertaining to the faith, I easily grant; but that the truth of these articles and so much of them as is certain or necessary is also in Scripture, I appeal to all the books of the fathers, and of all moderns[x] who do assert them by testimonies from Scripture. "Quicquid sciri vel prædicari oportet de incarnatione, de vera divinitate atque humanitate Filii Dei, duobus ita continetur Testamentis, ut extra hæc nihil sit, quod annunciari debet aut credi," said Rupertus Abbas, as I before quoted him. "All the mysteries of Christ's nature and person, of his humanity and divinity, are clearly set down in both Testaments." But they are not clearly reported in tradition: the fathers having sometimes spoken in these articles more in the Arian than in the Catholic style, say Hosius, Gordon, Huntly, Gretser, Tanner, Perron and Fisher. By scriptures therefore the church confuted the Arians, the Eutychians, the Nestorians, the Monothelites, the Photinians, and the Sabellians. The other articles are also[y] evi-

[x] De author. S. Script. lib. 3. p. 53. tom. 1. contr. 1. de Verbo Dei, cap. 19. In colloq. Ratisbon. lib. 3. cap. 3. contre le Roy Jaques, et lib. 2. cap. 7. de Euchar. cont. Du Plessis, et cap. 5. obser. 4. Resp. ad Quæst. 9 Jacobi Regis Epiph. hære. 69.

[y] St. Ambros. cap. 5. lib. de Fide contra Arianos. S. Aug. tract. 97. in Johan. et epist. 174. 178. St. Athanas. in libel. de Decret. Synod. Nicen. Tertul. adv. Praxeam. Theodoret. dial. 2. cap. 4. Salmero, disp. 4. in 2. ad Timoth.

dently in the words of Scripture or in the first consequences and deductions. And when we observe the men of the church of Rome going about with great pretensions to confirm all their articles by Scriptures, they plainly invalidate all pretence of necessity of traditions. If they say that all the articles of Trent are not to be found in Scripture, let them confess it plainly, and then go look out for proselytes. If they say there are scriptures for all their articles, then Scripture is sufficient, or else their faith is not. For all these I before reckoned, it is certain both they and we have, from Scripture, many proofs; and, if there were not, I believe tradition would fail us very much; for the heresies which oppugned them, were very early; and they also had customs and pretences of customs to prescribe for their false doctrines: as I shall make appear in the following periods.

26. There are also traditions pretended of things which are not necessary, such as are the fast of Lent,—godfathers and godmothers in baptism,—the mixture of wine and water in the eucharistical chalice,—the keeping of Easter upon the first day of the week,—trine immersion in baptism,—the Apostles' creed,—prayer for the dead,—the Wednesday and the Friday fast,—unction of sick people,—canon of Scripture,—the forms of sacraments,—and the perpetual virginity of the Virgin Mary.—Now that these are not divine traditions nor apostolical, appears by the destitution of their proper proof. They are ecclesiastical traditions and of several ages, and, some of them, of very great antiquity; but of what obligation they are, I shall account in the chapter of 'Laws Ecclesiastical.' In the meantime, they neither are of the necessity of faith, or the essential duty of Christian religion: and therefore as a Christian cannot go to heaven without the observation of them in certain circumstances, so is the Scripture a perfect canon without giving rules concerning them at all.

27. But then as for others, there are indeed a great many pretended to be traditions, but they are false articles, or wicked practices, or uncertain sentences at the best. I reckon some of those which the Roman church obtrudes: such as are invocation of saints and angels; adoration of them, and worshipping of images; the doctrine of purgatory; prayer

in an unknown tongue; the pope's power to depose kings, and to absolve from lawful and rate oaths; the picturing of God the Father and the holy Trinity; the half-communion; the doctrine and practice of indulgences; canon of the mass; the doctrine of proper sacrifice in the mass; monastical profession; the single life of priests and bishops. Now these are so far from being apostolical traditions, that they are, some of them, apparently false, some of them expressly against Scripture, and others confessedly new, and either but of yesterday, or, like the issues of the people, born where and when no man can tell. Concerning indulgences, Antonius [z] the famous archbishop of Florence, says, that 'we have nothing expressly recited in Holy Scripture, nor are they found at all in the writings of the ancient doctors.' The half-communion is, by the council of Constance, affirmed to be different from the institution of Christ and the practice of the primitive church. Concerning invocation of saints, "Cum scriberentur Scripturæ, nondum cœperat usus vovendi sanctis [a]."—Bellarmine [b] confesses that 'in the age in which the Scriptures were written, the use of making vows to saints was not begun;' and Cardinal Perron [c] excludes the next ages from having any hand in the invocation of them. "Et quant aux autheurs plus proche du siecle apostolique, encore qu'il ne se trouve pas de vestiges de ceste coustume," &c. "In the authors more near the apostolical age, no footsteps of this custom can be found."

Concerning making an image of the Father or of the holy Trinity, Baronius cites an epistle of Gregory II. An. Dom. 726. in which he gives a reason why the church did not make any picture of the Father; which forces him to confess, that the beginning of the custom of painting the Father and the Holy Ghost, "postea usu venit in ecclesia," "came into use afterward in the church."

The doctrine of purgatory is not only expressly against Scripture, saying, "Blessed are the dead which die in the Lord, even so saith the Spirit, for they rest from their labours;"—but it is also certain, that it was not so ancient as

[z] Summa Theol. p. 1. tit. 10. cap. 3. de Indulg. fol. 202. Venet. 1582. Vide etiam Cajetan. cap. 2. de Indulgent. Navar. Comment. de Jubil. et Indulgent.

[a] Biel. lect. 57. in Can. Missæ.

[b] De Cultu Sanctorum, cap. 9. sect. Præterea.

[c] Contre le Roy de la Grand Bretagne, p. 1009.

the canon of the Roman mass; the age of which no man can tell any more than they can tell the age of a flock of sheep or a company of men and children together; for one piece is old, and another is late, and another of a middle age. But the prayer which in the canon is for the dead, supposes that they are not in purgatory; but prays for them which are asleep in rest and quietness.

28. I shall not instance in any more, because I shall, in other places, meet with the rest: but these are a sufficient indication, how the church hath been abused by the pretence of tradition; and that a bold man may, in private, confidently tell his parishioner, that any doctrine is a tradition; and he is the more likely to prevail, because he cannot be confuted by his undiscerning hearer, since so great parts and so many ages of the church have been told of things, that they were traditions apostolical, when the articles themselves are neither old nor true. Is it imaginable by a man of ordinary understanding, or that hath heard any thing of antiquity, that the apostles should command their followers to worship the relics of St. James, or St. Stephen; or that St. Peter did ever give leave to a man that had sworn, to go from his oath, and not to do what he had sworn he would? Is it likely that St. Peter or St. Paul should leave secret instructions with St. Clement or St. Linus, that they might depose kings lawfully when it was in their power, and when kings did disagree in opinion from them? Is there any instance, or precept, or line, or doctrine, or history, that ever any apostle or apostolical man consecrated the holy communion where there was none to communicate? It was never heard that a communion could be single, till the 'catholic' church came to signify the 'Roman:' and yet if Scripture will not prove these things, tradition must. The experience and the infinite unreasonableness of these things does sufficiently give a man warning of attending to such new traditions, or admitting the topic in any new dispute, it having been so old a cheat: and after the canon of Scripture was full, and after that almost the whole church had been abused by the tradition of Papias in the Millenary opinion, which for three hundred years of the best and first antiquity prevailed, all the world should be wiser than to rely upon that which might

introduce an error, but which truth could never need, it being abundantly provided for in Scripture.

29. Sometimes men have been wiser; and when a tradition apostolical hath been confidently pretended, they would as confidently lay it aside, when it was not in Scripture. Clemens Alexandrinus reckons many traditions apostolical; but no man regards them. Who believes that the Greeks were saved by their philosophy, or that the apostles preached to dead infidels, and then raised them to life,—although these were by St. Clement affirmed to have been traditions apostolical? Did the world ever the more believe that a council might not be called but by the authority and sentence of the bishop of Rome, though Marcellus was so bold to say it was a canon apostolical? And after St. Jerome had said these words, "præcepta majorum apostolicas traditiones quisque existimat," that "what their fathers commanded, all men were wont to call them traditions apostolical;" no man had reason to rely upon any thing, which, by any one or two or three of the fathers, was called tradition apostolical, unless the thing itself were also notorious, or proved by some other evidence. But this topic of tradition is infinitely uncertain; and therefore if it be pretended new, it can be of no use in any of our questions. For if, in the primitive church, tradition was claimed by the opposite parties of a question, who can be sure of it now? Artemon pretended it to be an apostolical tradition that Christ was ψιλὸς ἄνθρωπος, "a mere man;" and the Nicene fathers proved it was not so, but much rather the contrary: but that topic would not prevail for either side. In the question of rebaptization of persons baptized by heretics, both sides pretended tradition; so they did in that impertinent, but (as they then made it) great question of the time of keeping Easter. Clemens Alexandrinus[d] said it was an apostolical tradition, that Christ preached but one year; but Irenæus[e] said it was an apostolical tradition, that Christ was about fifty years old when he died, and consequently that he preached almost twenty years. But if they, who were almost at the fountain, were uncertain of the river's head; how shall we know it, who dwell where the waters are ready to unbosom themselves into

[d] Lib. 1. Stromat. [e] Lib. 2. cap. 39.

the ocean? And to pretend an apostolical tradition in matters of faith, now that the books of the fathers have been lost, and yet there are a very great many to be read for the proving of tradition, that is, that there are too many and too few; that in the loss of some of them possibly we have lost that light which would have confuted the present pretences of tradition, and the remaining part have passed through the limbecs and strainers of heretics, and monks, and ignorants, and interested persons, and have passed through the corrections and deturpations and mistakes of transcribers (a trade of men who wrote books that they might eat bread, not promote a truth),—and that they have been disordered by zeal and faction and expurgatory indices, and that men have been diligent to make the fathers seem of their side; and that heretics have taken the fathers' names and published books under false titles, and therefore have stamped and stained the current; is just as if a Tartar should offer to prove himself to have descended from the family of King David, upon pretence that the Jews mingled with their nation, and that they did use to be great keepers of their genealogies.

30. But after all this, the question of tradition is wholly useless in the questions between the church of Rome and the other parts of Christendom. Not only because there are many churches of differing rites and differing doctrines from the Roman, who yet pretend a succession and tradition of their customs and doctrines "per tempus immemoriale," they know not when they began, and, for aught they know, they came from the apostles, and they are willing to believe it, and no man amongst them questions it, and all affirm it; particularly the Greek church, the Russians, the Abyssines: but also because those articles which they dispute with the other churches of the west, cannot be proved by tradition universal, as infinitely appears in those pitiful endeavours and attempts, which they use to persuade them to be such; which if they did not sometimes confute themselves, the reader may find confuted every where by their learned adversaries.

31. Therefore, although the perfection of Scripture be abundantly proved, yet if it were not, tradition will but make it less certain, and therefore not more perfect. For besides that nuncupative records are like diagrams in sand and

figures efformed in air, volatile and soon disordered,—and that by the words and practice of God, and all the world, what is intended to last was therefore written, as appears in very many places in Scripture[f], and therefore Job calls out, "O that my words were now written, O that they were printed in a book, that they were engraven with an iron pen and lead in the rock for ever:" upon which words the Greek Catena says, "He draws a similitude from them, who put those things in writing, which they very greatly desire should remain to the longest posterity;" and that the very nature of things is such, that a tradition is infinitely better preserved in writing than in speaking, and besides all those very many weak and uncertain and false traditions with which several men, and several ages, and several churches, have abused others, or been abused themselves; I instance in two great things, by the one of which we may see how easily the church may be imposed upon in the matter of tradition; and by the other, how easily those men impose upon themselves whose faith hath a temporal bias and divertisement.

33. The first is, that very many epistles of popes, viz. from St. Clemens to St. Gregory, that is, for above five hundred years, were imposed upon the church as the genuine writings of those excellent men, who governed the church of Rome in all her persecutions and hardnesses: and of these epistles the present church of Rome makes very great use to many purposes, and yet no imposture could be greater than this.

34. For, 1. They are patched up of several arguments and materials not at all agreeing with the ages, in which they were pretended to be written, but are snatched from the writings of other men and latter times. 2. They were invented after St. Jerome's time, as appears in the citation of the testimonies of Scripture from St. Jerome's translation, and the author cited St. Jerome's version of the Hebrew psalter. 3. They were not known in Rome for eight ages together: which were a strange thing that the records of Rome should have no copies of the epistles of so many of the bishops of Rome. 4. They are infinitely false in their chronology; and he that invented them, put the years of false councils to their date, as

[f] Exod. xvii. 14. xxxiv. 27. Job, xix. 23, 24. Psal. cii. 18. Isai. xxx. 8. Jer. xxx. 2. Rev. i. 11. 19. xxi. 5.

Baronius himself confesses, quite reckoning otherwise: and in the epistles of the whole five-and-forty, the decrees of councils and the words of ecclesiastical writers are cited, who yet were not at all in their ages, but wrote after the death of those popes who are pretended to have quoted them; or something is said that could not be done or said by them, or in their times. 5. They are written with the same style; and therefore it is no more probable that they should be the genuine epistles of so many popes, than that so many men in several ages should have the same features in their faces; but these epistles say over the same things several times, even unto tediousness, and yet use the very same words without any differing expressions. 6. And sometimes these words were most intolerably barbarous, neither elegantly fine, nor elegantly plain, but solecisms, impure words, and the most rude expressions, not unlike the friars' Latin, or the "epistolæ obscurorum virorum." 7. None of the ancient writers of the church did ever cite any testimony from these epistles for eight hundred years together, only one part of one of the epistles of St. Clement was mentioned by Ruffinus and the council of Vase. 8. None of those who wrote histories ecclesiastical, or of the church-writers, made mention of them: but all that do, were above eight hundred and thirty years after the incarnation of our blessed Lord. 9. And all this beside the innumerable errors in the matter which have been observed by the centuriators of Magdeburg, David Blondel, and divers others. And a more notorious cheat could never have been imposed upon the world; but that there are so many great notorieties of falsehood, that it is hard to say which is greater, the falsehood of the pontifical book, or the boldness of the compiler. Now if so great a heap of records can at once be clapped upon the credulity of men, and so boldly defended as it is by Turrian and Binius, and so greedily entertained as it is by the Roman confidants, and so often cited as it is by the Roman doctors, and yet have in it so many strange matters so disagreeing to Scripture, so weak, so impertinent, and sometimes so dangerous, there is very great reason to reject the topic of traditions, which can be so easily forged, and sometimes rely upon no greater foundation than this, whose foundation is in water and sand and falsehood that is more unstable.

35. The other thing is, that heretics and evil persons, to serve their ends, did not only pretend things spoken by the apostles and apostolical and primitive men (for that was easy), but even pretended certain books to be written by them, that under their venerable names, they might recommend and advance their own heretical opinions. Thus some false apostles, as Origen relates, wrote an epistle, and sent it to the church of Thessalonica under St. Paul's name, which much troubled the Thessalonians; and concerning which, when St. Paul had discovered the imposture, he gives them warning, that 'they should not be troubled about any such epistle, as if he had sent it.'—Thus there was a book published by an Asian priest under St. Paul's name, as St. Jerome reports, containing the vision of Paul and Tecla, and I know not what old tale of the baptizing Leo. Some or other made St. Clement a Eunomian, and Dionysius of Alexandria an Arian, and Origen to be every thing, by interpolating their books, or writing books for them. Ruffinus tells that the heretics endeavoured to corrupt the Gospels: and that they did invent strange acts of the apostles, and made fine tales of their life and death, we need no better testimony than Tertullian's instances in his books against Marcion: and for this reason Origen[s] gives caution, "Oportet caute considerare, ut nec omnia secreta, quæ feruntur nomine sanctorum, suscipiamus;" "We must warily consider and not receive all those secret traditions, which go up and down under the name of saints," viz. of the holy apostles. And of the same nature is that famous cheat that usurps the name of Dionysius the Areopagite, called 'The passion of Peter and Paul;' as who please may see in Laurentius Valla and Erasmus. And such is the book of the same passions attributed to Linus; which was invented so foolishly and carelessly, that it contradicts the Scriptures most apparently, as every one that reads it, may without difficulty observe. Now the observation from these things is plain: in the matter of traditions, as they are now represented, there is so much of human failings, and so little of divine certainty, they are often falsely pretended, and never truly proved, and if they should need to be proved, were therefore not to be accepted; because no particular proofs can make them universal; and

[s] Homil. 26. in Matt.

if they be not universal, of themselves they cannot be credible, but need something else to make them so; they are (whether true or false) so absolutely now to no purpose, because it is too late to prove them now, and too late to need them, the church having so long accepted and relied upon the canon of Scripture, that we are plainly, and certainly, and necessarily, devolved upon Scripture for the canon of our faith and lives. For though no man ought to reject tradition if he did need it, and if he could have it,—yet because he neither can want it (because Scripture is a perfect rule), nor can have it (because it cannot in any one of our questions be proved), we must rely upon what we have. It is in the matter of traditions as in the epistle of St. Paul to Laodicea: if this or those were extant and sufficiently transmitted and consigned to us, they would make up the canon as well as those we have: but there is no such thing as the Laodicean epistle, and there is no such thing as tradition of doctrines of faith not contained in Scriptures. The fathers that had them, or thought they had them, might call upon their churches to make use of them; but we that cannot have them, must use what we have: and we have reason to give thanks to God, that we have all that God intended to be our rule. God gave us in Scripture all that was necessary; it was a perfect rule; and yet if it had not, it must become so when we have no other.

36. But, upon the matter of this argument, there are three questions to be considered in order to faith and conscience.

1. Whether there be not any rules and general measures of discerning tradition, by which although tradition cannot be proved the natural way, that is, by its own light, evidence of fact and notoriety,—yet we may be reasonably induced to believe, that any particular is descended from tradition apostolical, and consequently is to be taken in, to integrate the rule of conscience?

2. How far a negative argument from Scripture is valid, and obligatory to conscience?

3. Whether there may be any new articles of th or that the creed of the church may so increase, that what is sufficient to salvation in one age, cannot serve in another?

Question I. is concerning the indirect ways of discerning traditions.

37. In vain it is to dispute, whether traditions are to integrate the canon of Scripture, when it cannot be made to appear, that there are any such things as apostolical traditions of doctrines not contained in Scripture. For since the succession in all the chairs hath been either interrupted or disordered by wars or heresies, by interest or time, by design or by ignorance, by carelessness or inconsideration, by forgetfulness or unavoidable mistake, by having no necessity of tradition, and by not delivering any,—it is in vain to dispute concerning the stability of atoms, which as of themselves they are volatile and unfixed, so they have no basis but the light air, and so are traditions: themselves are no argument, and there are no traditions; they are no necessary or competent stabiliment of doctrine or manners: or, if they were, themselves have no stabiliment.

38. For it is certain, there can be no tradition received for apostolical at a less rate than the rule of Vincentius Lirinensis. For to prove by Scripture that there are any traditions not written in Scripture, is a trifling folly; since there might be necessity of keeping traditions, before all that which is necessary, was set down in writing. So that all the pretensions, taken from Scripture in behalf of traditions, are absolutely to no purpose, unless it were there said, 'There are some things which we now preach to you which shall never be written; keep them:' but the naming of "traditions" in some books of Scripture, and the recommending them in others, is no argument to us to inquire after them, or to rely upon them; unless that which was delivered by sermon, was never to be delivered by writing, and that we knew it as certainly as that which is. And the same is to be said of the sayings of fathers who recommend traditions; for although the argument lessened every year, yet it was better then than it can be now; it could serve some uses then, it can serve none now; it might in some instances be certain, and safe in many, but now it cannot be either, neither certain, nor safe, nor necessary, nor of any use at all; which having been made to appear in the preceding numbers, it must follow that there can be no doctrinal traditions besides the matters of Scripture; because there are none

such recommended to the church by the measures of Vincentius Lirinensis. There is no doctrine, no rule of faith or manners, which is not in the Holy Scriptures, and yet which was 'believed always, and in all churches, and of all men in those churches.' For although it is very probable, that Vincentius, by this rule, intended to reprove the novelties and unusual doctrines, which St. Ausin, by his great wit and great reputation, had brought into the church, contrary to the sentiments and doctrines of the fathers which were before him;—yet it will perfectly serve to reprove all our late pretensions to traditions. For by this measure, we find it not to be enough, that a doctrine hath been received for a thousand years together by the catholic church, reckoning from his period upwards; unless it were also received by the apostolical ages and churches throughout the world, it is nothing: and if it were received by all the apostolical churches, and all good and wise men in those churches, and so downwards; wherever any church failed, it was to their own prejudice, not to the prejudice of the doctrine: for that was apostolical which was from the beginning; and whatsoever came after, could not change what was so before; and the interruption of an apostolical truth, though for a thousand years together, cannot annul the obligation, or introduce the contrary. So that if we begin to account by this rule of Vincentius and go backwards, it is nothing unless we go back as far as to the apostles inclusively: but if we begin there, and make that clear, it matters not how little a way it descends: and therefore although it is an excellent rule to reprove vain and novel pretensions, yet there is nothing to be proved by it practicably: for we need not walk along the banks and intrigues of Volga, if we can at first point to the fountain; it is that whither the long progression did intend to lead us. If any thing fails in the principle, it is good for nothing; but if the tradition derive from the fountain, and the head be visible, though afterward it run under ground, it is well enough. For if a doctrine might invade the whole church which was not preached by the apostles, or if the doctrine might to many good and wise persons seem to have possessed the whole church, that is, to be believed by all those that he knows, or hears of, or converses with, and yet not have been the doctrine of the apos-

tles; it is certain that this universality, and any less than that which takes in the apostles, can never be sufficient warranty for an article of faith or a rule of life, that is, the instance and obligation of a duty necessary to salvation. But how shall we know concerning any doctrine, whether it be a tradition apostolical? Here the rule of Vincentius comes in. If it can be made to appear, that all churches and all men did, from the apostles' times down to the time of inquiry, accept it as true, and report it from the apostles, then it is to be so received and continued. Indeed a less series and succession will serve. For if we can be made sure, that the age next to the apostles did universally receive it as from the apostles, then we may not reject it. But what can make faith in this? certainly nothing; for there is no doctrine so delivered but what is in Scripture. Indeed some practices and rituals are, because the public exercise and usages of the church being united and notorious, public and acted, might make the rite evident as light; but in doctrines (besides Scriptures) we have not records enough to do it; and therefore this general rule of Vincentius not being practicable, and the other lesser rules or conjectures rather being incompetent, *μένωμεν ὥσπερ ἐσμὲν*, "we must remain as we are," and give God thanks for the treasures of Holy Scripture, and rejoice and walk in the light of it.

39. But let us try a little. The first rule which is usually given, is this; 'That which the catholic church believes as an article of faith, which is not found in Scriptures, is to be believed to descend from apostolical tradition.' This rule is false and insufficient upon many accounts.

1. For if the church can err, then this rule can have no firmament or foundation. If she cannot err, then there is no need either of Scriptures or tradition; and there is no use of any other argument to prove the truth of an article or the divinity of a truth, but the present belief and affirmation of the church, for that is sufficient whether it be written or not written, whether it be delivered or not.

But, 2. Supposing the church could not err in matters of faith, yet no man says but she may err in matter of fact: but whether this thing was delivered by the apostles is matter of fact; and therefore though the church were assisted so that she could not mistake her article, yet she may mistake her

argument and instrument of probation; the conclusion may be true, and yet the premises false; and she might be taught by the Spirit, and not by the apostles.

3. No man now knows, what the catholic church does believe in any question of controversy; for the catholic church is not to be spoken with; and being divided by seas, and nations, and interests, and fears, and tyrants, and poverty, and innumerable accidents, does not declare her mind by any common instrument, and agrees in nothing but in the Apostles' creed, and the books of Scripture; and millions of Christians hear nothing of our controversies, and, if they did, would not understand some of them.

4. There are thousands, that do believe such an article to be taught by the catholic church, and yet the catholic church with them is nothing but their own party; for all that believe otherwise, they are pleased to call heretics. So that this rule may serve every party that is great, and every party that is little, if they add pride and contumacy to their article: and what would this rule have signified amongst the Donatists, to whom all the world was heretic but themselves? and what would it signify amongst those peevish little sects, that damn all the world but their own congregations? even as little as it can to the church of Rome, who are resolved to call no church 'catholic' but their own.

5. The believing of such an article of faith could not be indication of a true catholic, that is, of a true member of the catholic church: because if the article is to be proved to be apostolical by the present belief of the catholic church, either the catholic church is the whole Christian church, and then we can never tell what she believes in a particular question (and indeed she believes nothing in the question, because if it be a question, the catholic church is divided in her sense of it); or else the catholic church is some body or church of Christians separate from the rest, and then she must by other means be first known that she is the catholic church, before we can accept her belief to be an argument that the article is an apostolical tradition. Add to this, that the church's believing it, is not, cannot be, an argument that the doctrine is apostolical; but on the contrary, it ought to be proved to be apostolical, before it is to be admitted by the churches. And if it be answered, that 'So it was to those churches who

admitted it first, but to us it ought to be sufficient that the church received it, and we ought therefore to conclude it to be apostolical;' I reply, that it is well if it was first proved to the church to be apostolical; but then if the primitive church would not receive the doctrine without such evidence, it is a sign that this was the right way of proceeding, and therefore so it ought to be with us; they would not receive any doctrine, unless it were proved to come from the apostles; and why should we? and to say that 'because they received it, we ought to suppose it to have been apostolical,' I say, that is to beg the question: for when we make a question whether the church did well to receive this doctrine, we mean, whether they did receive it from the apostles or no. And therefore to argue from their receiving it, that it was apostolical, is to answer my question by telling me, 'I ought to suppose that, and to make no question of it.' But if this rule should prevail, we must believe things which even to affirm were impudent. The church of Rome, calling herself he catholic church, affirms it to be heresy to say that 'it is necessary to give the communion under both kinds to the laity;' but he that will from hence, though he believe that church to be the catholic, conclude that doctrine to be the apostolic; must have a great ignorance or too great a confidence. Nay, this rule is in nothing more apparently confuted than in this instance: for the canon in the council of Constance, which establishes this for catholic doctrine, by confessing it was otherwise instituted by Christ, and otherwise practised at the beginning, confesses it not to be apostolic. So that, upon this account, it is obvious to conclude, that either the universal church can err, or else the same thing can come and cannot come from tradition apostolical. For the half-communion is no where commanded in Scripture; therefore either the ancient catholic church did err in commanding the whole communion, or the modern catholic church (I mean the Roman, which pretends to the name) does err in forbidding it; or else, if neither do err, then the communion under both kinds did come and did not come from tradition apostolical.

But, 6. Suppose it were agreed, that one congregation is the catholic church, and resolved upon which is that congregation, yet if it be but a part of Christians, and that interest-

ed, it is not in the nature of the thing to infer, that because this interested divided part believes it, therefore the apostles taught it: this consequent is not in the bowels of that antecedent, it cannot be proved by this argument: if it can be proved by revelation, that what the present church believes, was a tradition apostolical, let it be shown, and there is an end of it. In the meantime this rule is not of itself certain, or fit to be the proof of what is uncertain, and therefore not a good rule, till it be proved by revelation.

7. It is evidently certain, that what one age believes as a necessary doctrine, another age (I mean of the catholic church) did not believe for such; and it is not sufficient for the making of a catholic doctrine that it be "ubique," "believed every where," unless it be also "semper et ab omnibus," "always and by all men." I instance in the communicating of infants, which was the doctrine of St. Austin and of Pope Innocentius, and prevailed in the church for six hundred years (says Maldonat[h] the Jesuit), that it was necessary to the salvation of infants, that they should receive the holy sacrament of the Lord's supper. Now it is also as certain that for six hundred years more, the church, which calls herself catholic, believed the contrary. Which of these can prove apostolical tradition? for if it be objected, that this was not the doctrine of the catholic church in those ages, in which the most eminent fathers did believe and practise it, besides, that it is not probable that they would teach it to be necessary, and generally practise it in their churches, if the matter had been nothing but their own opinion, and disputed by others; I add this also, that it was as much the doctrine of the catholic church, that it was necessary, as it is now that it is not necessary: for it is certain the holy fathers did believe and teach and practise it, and the contrary was not disputed; but now though it be condemned by some, it is still practised by very great parts of the catholic church, even by all the Greek church, and by those vast numbers of Christians in Ethiopia[i]. So that although no doctrinal tradition is universally received but what is contained in Scriptures; yet those that have been received as universally as any other matter of question is, have been, and have not been,

[h] In cap. vi. Johan. n. 116.
[i] Vide Hierom. Petriar. Constantinop. Doctr. et Exhor. ad Germanos.

believed by the church in several ages: and therefore if this rule be good, they must prove, that the same doctrine was and was not a tradition apostolical.

8. This rule were good (and then indeed only) if there were no way to make an opinion to be universally received but by derivation from the apostles. But, (1.) There are some which say, 'Every age hath new revelations:' where this is believed, it is apparent, an opinion, which the apostles never heard of, may be adopted into the faith and universally received. But, besides this, there are more ways of entry for a popular error than any man can reckon or any experience can observe. (2.) It is not impossible, that some leading man may be credulous and apt to be imposed upon by heretics and knaves; but when he hath weakly received it, it shall proceed strongly upon his authority. The matter of Papias about the doctrine of the Chiliasts is notorious in this particular. (3.) It is also very possible, that what is found at first to be good, shall be earnestly pressed by a zealous man, and he may over-express himself, and consider not to what consequence it may afterward be extended; and then following ages may observe it, and make a logical conclusion from a rhetorical expression; and then what only good men had entertained when it was called useful, all men shall receive when it is called necessary; and it is no great progression from what all men believe good, that some men should believe necessary, and from them others, and from others all men. It was thus, in many degrees, in the matter of confession and penance. (4.) It is not very unlikely, certainly it is no way impossible, but that the reputation of some great man in the church may prevail so far by our weaknesses and his own accidental advantages, that what no man at first questions, very many will afterward believe, and they introduce more; and from more to most, and from most to all men, are no impossible progressions, if we consider how much mankind, especially in theology, have suffered the authority of a few men to prevail upon them. (5.) Does not all the world see that zeal makes men impatient of contradiction, and that impatience makes them fierce in disputing, and fierce in fighting, and ready to persecute their enemies? and what that unity and universality are which can be introduced by force, a great part of the world hath had too long an ex-

perience to be ignorant. 6. Beyond all this, a proposition may be supposed to follow from an apostolical tradition, and prevail very much upon that account; and yet it would be hard to believe the scholar's deduction equally with the master's principle, and a probable inference from tradition equal to the very affirmative of the apostles. A man may argue, and argue well too, and yet the conclusion will not be so evident as the principle: but that it may equally prevail, is so certain, that no man can deny it but he that had never any testimony of the confidence of a disputing man, and the compliance of those who know not so well, or inquire not so strictly, or examine not suspiciously, or judge not wisely.

40. (2.) The next rule which is pretended for the discovery of an apostolical tradition, is this,—'That which the universal church observes, which none could appoint but God, and is not found in Scripture, it is necessary to say that it was delivered by Christ and his apostles.'—This rule must needs be false, because it does actually deceive them that rely upon it. Because their church, which they will fondly suppose to be the catholic, uses certain sacramentals to confer grace (which none could institute but Christ, who alone is the fountain of grace) and the Holy Spirit to his servants: but yet to pretend that they are traditions apostolical were the greatest unreasonableness in the world. I instance in holy water, baptizing of bells, hallowing of Agnus Deis, roses, swords, hats, chrism, and the like, which no man can fairly pretend to be traditions apostolical, but yet they are practised by all their catholic church, and they are of such things as no man but God could be the author of, if they were good for any thing; but then to conclude from hence that they are traditions apostolical, were just as if one were to give a sign how to know whether lying were lawful or unlawful, and for the determination of this question should give this rule,—'Whatsoever mankind does universally which they ought not to do without God's law, that certainly they have a law from God to do;'—but all mankind are given to lying, and yet nothing can make it lawful to lie, unless there be a warranty or no prohibition from God to lie; therefore certain it is, that to lie descends from the authority of God. Indeed if the catholic church could not be uncharitable, if they could not sin against God, then it were certain, if they all did it,

and it were not warranted in Scripture, it must be from God: but it does not follow, it would be by tradition; because it may be by the dictate of right reason, by natural principles, or it would be a thing indifferent; but that it must be by tradition, if it were not by Scripture, or by the church, were as if we should say, 'If Lælaps be not a horse, or begotten by a lion, he must needs be a bear:' but these rules are like dead men's candles, they come from no certain cause, and signify no determined effect; and whether they be at all, we are no surer than the reports of timorous or fantastic persons can make us. But this rule differs not at all from the former, save only, that speaks of doctrinal and this of ritual traditions: but both relying upon the same reason, and that reason failing (as I have proved), the propositions themselves do fail. But then as to rites, it is notorious beyond a denial, that some rites used in the universal church, which are also said to be such which none ought to appoint but God, were not delivered by the apostles. I instance in the singularity of baptism of heretics, which the whole church now adheres to, and yet if this descended from apostolical tradition, it was more than St. Cyprian or the African churches knew of, for they rebaptized heretics, and disputed it very earnestly, and lived in it very pertinaciously, and died in the opinion.

41. (3.) The third rule is,—'Whatsoever the catholic church hath kept in all ages by-gone, may rightly be believed to have descended from the apostles, though it be such a thing which might have been instituted by the church.'—This rule is the same with that of Lirinensis, of which I have already given account: and certainly in those things in which it can be made use of (which are extremely few), it is the best, and indeed the only good one. But then this can relate only to rituals, not to matter of doctrine; for nothing of this can be of ecclesiastical institution and appointment: it cannot be a doctrine of faith unless it be of divine tradition; for Christ is the author and finisher of our faith, which the church is to preach and believe, not to enlarge or shorten, not to alter or diversify. But then as to rituals, the keeping of Easter on the first day of the week by this rule cannot be proved to be an apostolical tradition; because the Asian churches kept it otherwise: and by this rule the keeping of Lent-fast for forty days will not be found to be an apostoli-

cal tradition; because the observation of it was very full of variety, and some kept it forty hours, some a day, some a week, as I shall afterward in its proper place make to appear. But by this rule the distinction of bishops and presbyters is an apostolical tradition (besides the Scriptures, by which it appears to be divine); by this the consecration of the blessed eucharist by ecclesiastical persons, bishops and priests, is certainly a tradition apostolical; by this the Lord's day is derived to us from the apostles; and by this the baptism of infants is much confirmed unto the church; and whatsoever can descend to us and be observed in this channel, there is no sufficient reason to deny it to be apostolical: but then how far it can be obligatory to all ages and to all churches, will be another consideration; it being on all hands confessed, that some rituals which were observed in the apostles' times, are, with good cause and just authority, laid aside by several churches. But of this I shall give particular accounts.

42. (4.) 'When all the doctors of the church by common consent testify concerning any particular that it descends from apostolical tradition, we are to hold it for such: whether they affirm this in all their writings, or together in a council.'—To this rule I answer, That where it would do good, there it is not practicable; and where it is practicable, there it is not true. For it is indeed practicable, that a council may give testimony to a particular, that it came from the apostles; but it does not follow, that they are not deceived; for it never was, and it never will be, that all the doctors of the church shall meet together in council, and unless they do, their testimony is not universal. But if all the fathers should write in their books that such a thing was delivered by the apostles, unless it were evidently against Scripture or right reason, there could be no sufficient cause to disbelieve it; and it were the best way we have of conveying and handing the tradition to us, next to the universal practice of the church in her rituals. But there is no such thing so conveyed to us: and therefore Bellarmine plays at small game with this rule, and would fain have the world admit tradition for apostolical, if some fathers of great name say so, and others that speak of the same thing, contradict it not. But this is a plain begging, that when he cannot prove a thing

to be tradition apostolical by a good argument and sufficient, we will be content to take it without proof, or at least to be content with such as he hath, and believe his own word for the rest, though he knows nothing of it. If it fails or goes less than "omnibus, and semper, and ubique," which is Vincentius's measure, it cannot be warranted, and he that allows it, is more kind than wise. St. Basil [k] proves the perpetual virginity of the blessed Virgin Mary by a tradition, that Zachary was slain by the Jews between the porch and the altar for affirming her to be a virgin after the birth of her most holy son: but St. Jerome [l] says it is "apocryphorum somnium," "a dream of apocryphal persons." But it was a long time before the report of the Millenary tradition was contradicted; and yet, in that interval, in which many of the most eminent fathers attested it to have descended from the apostles, it was neither true nor safe to have believed it. But then as to the particular and more practicable part of this rule, that 'if a general council affirms it to be tradition apostolical, it is so to be accepted,' it is evidently fallacious and uncertain; for the second council of Nice affirmed the veneration of images to be an apostolical tradition: but it is so far from being true that it was so as they affirmed, that not only the apostolical, but divers of the following ages hated all images, and did not think it lawful so much as to make them; of which I have already [m] given a large account in this book.

43. (5.) 'When the apostolical churches, which from the apostles have had uninterrupted succession, do witness concerning any thing that it is apostolical tradition, it is to be admitted for such:'—This rule was good, before the channels were mingled with impure waters entering in. It was used by Irenæus, Tertullian, St. Austin, and others; and it was to them of great advantage. But although it was good drinking of Euphrates when it newly ran from the garden of Eden, yet when it began to mingle with the Borborus, it was not good: and who durst have trusted this rule when Dioscorus was bishop of Alexandria, who yet was lineally descended from St. Mark? And who durst have relied upon this rule, when Pope Julius absolved the Sabellian heretics, and communicated with Marcellus Ancyranus? and when

[k] Serm. de S. Nativitat. [l] In Matt. xxiii. [m] Cap. 2. rule 5.

St. Basil[n] complains of the western bishops, and particularly the Roman, "quod veritatem neque norunt, neque discere sustinent—cum iis, qui veritatem ipsis annunciant, contendentes, hæresin autem per se ipsos stabilientes:" "that they neither know the truth, nor care to learn it; but they contend with them who tell them the truth, and by themselves establish heresy:"—"Quia multi principes et summi pontifices et alii inferiores inventi sunt apostatasse à fide, propterea ecclesia consistit in illis personis, in quibus est notitia vera, et confessio fidei et veritatis[o]." How can this rule guide any man, when all the apostolical churches have fallen into error, and many popes have been apostates from the faith, and the church consisted not of prelates, but indifferently of all that believed and professed the truth, which the popes and princes and prelates did deny? The apostolical church of Antioch is not; and the patriarchal church of Alexandria is accused by the Latins of great errors; and the mother-church of Jerusalem hath no succession, but is buried in ruins; and the church of Rome is indeed splendid, but he that will take her word for tradition, is sure to admit many false ones, but not sure of any true, but such as she hath in common with all the churches of the world.

44. I conclude therefore this question, that, amongst those rules of discerning traditions truly apostolical from them that are but pretended such, there is no rule competent but one, which is scarcely practicable, which indeed transmits to the church a few rituals, but nothing of faith or rule of good life; and therefore it is to no purpose to look any where else for the divine rule of conscience, but in the pages of the Old and New Testament: they are sufficient, because they were intended by God to be our only rule; and yet if God had intended traditions to be taken in, to integrate the rule, and to oblige our conscience, it is certain that God intends it not now, because the traditions are lost if there were any; and if they be now, they do not appear, and therefore are to us as if they were not.

Question II.

45. The second question also does very nearly relate to conscience and its conduct, viz. 'Since the Scripture is the

[n] Epist. 10. [o] Lyra in Matt. cap. xvi.

perfect rule of conscience, and contains in it all the will of God, whether or no, and how far is a negative argument from Scripture to prevail?'—

46. The resolution of this depends upon the premises. For if Scripture be the entire rule of faith and of manners, that is, of the whole service and worship of God, then nothing is an article of faith, nothing can command a moral action, that is not in its whole kind set down in Scripture. This I proved by direct testimonies of Tertullian, St. Basil, St. Austin, St. Cyril, Theophilus Alexandrinus, and St. Jerome, in the foregoing numbers [p]. To which I add these excellent words of St. Cyril of Jerusalem; speaking of the Jerusalem creed, which he had recited and explicated and promised to prove from Scripture, he gives this reason; "Nam divinorum sanctorumque fidei mysteriorum nihil, ne minimum quidem, absque divinis Scripturis tradi debet, neque simplici probabilitate neque verborum ornatu traduci:" "Not the least part of the divine and holy mysteries of faith must be delivered without the divine Scriptures. Believe not me telling thee, unless I demonstrate what I say from the divine Scripture. For the safety and conservation of our faith rely upon the proof of the divine Scriptures."—But because there are some particulars and some variety in the practice of this rule, I am to consider it now to other purposes.

47. (1.) 'Nothing is necessary either to be believed or done, unless it be in Scripture:'—Thus St. Gregory Nyssen [q] argues, "Ubinam dixit Deus in evangeliis oportere credere in unum et solum verum Deum? Non possent ostendere nisi habeant ipsi novum aliquod evangelium. Quæ enim ab antiquis per traditionem ad hæc usque tempora in ecclesiis leguntur, hanc vocem non continent quæ dicat, oportere credere vel baptizare in unum solum verum Deum, quemadmodum isti autumant, sed in nomen Patris, et Filii, et Spiritus Sancti." I have, I confess, something wondered at the matter of this discourse. For either the Arians have infinitely imposed upon us, and interpolated Scripture in a very material article; or else St. Gregory forgot the seventeenth of St. John and the third verse; or else he insisted only upon the words δεῖ πιστεύειν, for the same sense is in the place now cited. For if this be

[p] Vide num. 9. [q] Orat. 2. contra Eunomium.

'life eternal to know him the only true God, and whom he hath sent, Jesus Christ,' then also to believe in them only is life eternal, and then we are tied to believe in none else; for we cannot believe in that we do not know. Indeed the words are not there or any where else, that we "ought to believe in [God the Father] him, the one only true God," &c. But certainly, if we are to know him only, then only to believe in him seems to be a very good consequent. But St. Gregory therefore only insisted upon the very words, and thought himself safe (as indeed he was) upon the reverse of another argument. For since the words "oportere credere in unum solum verum Deum" were not in St. John or any where else, he concluded the contrary sense from a very good argument: we are commanded to be baptized into the faith of Father, Son, and Holy Ghost, therefore we are to believe in three: and because the word "believe" was not set down expressly, where knowledge is confined to one or two, therefore it cannot be said that we are tied to believe only in one or two: but because to believe in three can be inferred as a duty from another place, and therefore it cannot be denied as a consequent from this; and therefore he had no reason to insist upon his negative argument. Thus St. Austin[r] also argued; "Pater enim solus nusquam legitur missus[r]," "The Father is never, in Scripture, said to be sent; therefore no man must say it." —So Epiphanius[s]; "Ipsa dictio non omnino cogit me de Filio Dei dicere: non enim indicavit Scriptura, neque quisquam apostolorum meminit, neque evangelium:" "The manner of speaking compels me not to understand it of the Son of God: for the Scripture hath not declared it; neither the gospel nor any of the apostles hath made any mention of it."

48. (2.) 'A negative argument from the letter of Scripture is not good, if the contrary affirmative can be drawn by consequent from any part of it:'—Thus our blessed Saviour confuting the Sadducees, in the article of the resurrection, hath given us a warranty for this proceeding; "God is the God of Abraham, Isaac, and Jacob." These were the words of Scripture. But these directly would not do the work. But therefore he argues from hence, "God is not the God of the dead, but of the living:" therefore these men are alive. That the Holy Ghost is God is no where said in Scripture;

[r] Lib. 2. de Trinit. cap. 5. et cap. 6. [s] Contr. Hær. lib. 2. tom. 2.

that the Holy Ghost is to be invocated is no where commanded, nor any example of its being done recorded. It follows not therefore that he is not God, or that he is not to be invocated: and the reason is, because that he is God is a certain consequent from something that is expressly affirmed; and therefore the negative argument is imperfect, and consequently not concluding. "Quæ neque à Christianis dicuntur neque creduntur, neque ex consequente per ea, quæ apud nos certa sunt et concessa intelliguntur[t];" &c. "If Christians did never speak, nor believe, any such thing, nor can they be drawn from the consequence of those things which are certain and granted amongst us, then indeed it is to be rejected from our creed."—Now amongst Christians this is believed as certain, that we may pray to him in whom we believe; that we believe in him, into the faith of whom we are baptized; that we are commanded to be baptized into the belief and profession of the Father, Son, and Holy Ghost: from hence Christians do know that they are to invocate the Holy Ghost. For St. Paul's argument is good, "How shall we call on him on whom we have not believed?" therefore we may call on him, if we believe on him: according to that rule of reason, "Negatio unius diversum affirmat," "The denying of one is the affirmation of its contrary," in like matter. —And something of this was used by Paschasius[u] the deacon: and the effect of it prevailed upon this account of a negative from Scripture; "In nullis autem canonicis libris, de quibus symboli textus pendet, accepimus, quia in ecclesiam credere sicut in Spiritum Sanctum Filiumque debemus;" "We are taught in no scripture (from whence the Creed is derived) to believe in the church, as we believe in the Son and in the Holy Ghost:" and therefore we ought not to do it; but it being plain in the Creed and consequently in the Scripture, that we must believe in the Holy Ghost, therefore also we may pray to him, and confess him to be God. To the same purpose St. Basil argues concerning the Holy Spirit; "Dignitate namque ipsa secundum esse à Filio pietatis sermo fortassis tradit: natura vero tertia uti nec à Divinis Scripturis edocti sumus, nec ex antecedentibus possibile est consequenter colligi," that the Holy Spirit is of a nature distinct from the Father and the Son, we neither are taught in Scripture,

[t] S. Greg. Nyssen. ibid. [u] Lib. de Spir. de cap. 1.

"neither can it be drawn into consequence from any antecedent pretences[x]."

49. (3.) 'A negative argument of a word or an expression cannot be consequently deduced to the negation of the mystery signified by that word:'—The Arians therefore argued weakly, "Show us in all the Scripture that the Son is called ὁμοούσιος or 'consubstantial' to the Father; if you cannot, you ought not to affirm it." For we know God is one; if therefore we find in Scripture that the Son is true God, we know he must needs be of the same substance with his Father; for two substances cannot make one God. So though the blessed Virgin Mary be not in Scripture called Θεοτόκος 'the mother of God,' yet that she was the mother of Jesus, and that Jesus Christ is God, and yet but one person, that we can prove from Scripture, and that is sufficient for the appellative: and if the church of Rome could prove the mystery of transubstantiation from Scripture, we would indulge to them the use of that word, or any other, aptly to express the same thing.

50. (4.) 'A negative argument from Scripture is sufficient to prove an article not to be of necessary belief, but is not sufficient to prove it not to be true:'—Because although the Scripture is the measure of faith and of manners, yet it is not an adequate measure of all truth. The meaning of which rule takes in all truths of art, of experience, of prudence, of tradition, and common report. Thus although it be no where said in Scripture that our blessed Saviour said, "Nunquam læti sitis, nisi cum fratrem vestrum in caritate videritis," "Be never very merry, but when you see your brother in charity;" yet St. Jerome reports it of him, and it is a worthy saying, and therefore may very well be entertained, not only as true and useful, but as from Christ. The Scripture no

[x] Nonne perspicuum est, ista, tametsi non dicantur, tamen ex illis colligi quæ hæc necessariò efficiant ac probent? Quæ tandem? 'Ego sum primus;' et post hæc, 'et ante me non est alius Deus, et post me non erit.' Totum enim quicquid est, meum, nec principium habens, nec finem habiturum. His à Scriptura acceptis, illud quidem, quod ante eum nihil sit, nec antiquiorem causam habeat, anarchum et ingenitum appellasti: quod autem nunquam desiturum sit, immortale, exitiique expers. Nazianz. lib. 5. Theol. Interprete Jacobo Billio.—Et infra; Cum ergo in nominibus et rebus tantum discrimen reperiatur, quid causæ est cur literæ tantopere servias, Judaicæque sapientiæ teipsum adjungas, relictisque rebus syllabas consectoris? Quod si te bis quinque aut bis septem dicente, decem aut quatuordecim ex verbis tuis colligerem, aut ex eo quod animal ratione præditum et mortale diceres, hominem esse concluderem, an tibi viderer delirare? Neque enim verba magis sunt ejus qui loquitur quam illius qui loquendi necessitatem simul affert.

where says that the blessed Virgin was a virgin perpetually to the day of her death: but as therefore it cannot be obtruded as an article of faith, yet there are a great many decencies and probabilities of the thing, besides the great consent of almost all the church of God, which make it very fit to be entertained. There are some things which are "pie credibilia," "there is piety in the believing them:" and in such cases it is not enough that there is nothing in Scripture to affirm it; if there be any thing in any other topic, it is to be entertained according to the merit of the thing.

51. (5.) 'A negative argument from Scripture does not conclude in questions of fact:'—And therefore St. Jerome[y] did not argue rightly, "Quanquam excepto apostolo non sit manifeste relatum de aliis apostolis quod uxores habuerint, et cum de uno scriptum sit ac de cæteris tacitum, intelligere debemus, sine uxoribus eos fuisse, de quibus nihil tale Scriptura significat;" "The Scripture names only Peter's wife, and does not say that any other of the apostles were married; therefore we are to conclude that they were not."—For besides that the allegation is not true, and St. Paul intimates that the other apostles, as well as Peter, did lead about a sister, a wife; and that from thence the fathers did believe them all to have been married except St. John, and some also except St. Paul; yet the argument is not good: for it may as well be concluded, that St. Peter never had a child; or that Christ did never write but once when he wrote upon the ground, because the Scripture makes no mention of either.

52. (6.) 'When a negative argument may be had from Scripture for both the parts of the contradiction, nothing at all can be concluded thence;'—But it must be wholly argued from other topics. The Scripture neither says that Christ did ever laugh, nor does it say that he did never laugh; therefore either of the contradicting parts may be equally inferred, that is, truly neither. And indeed this is of itself a demonstration, that in matters of fact and matters not necessary, a negative argument from Scripture is of no use at all.

53. (7.) 'But when the question is of lawful or unlawful, then it is valid.'—If it be not in Scripture forbidden, directly or by consequent, then it is lawful; it is not by God for-

[y] Lib. 1. contr. Jovin.

bidden at all. And on the other side, if it be not there commanded, it is not necessary. Lucentius thus argued in the council of Chalcedon: "Dioscorus synodum ausus est facere sine auctoritate sedis apostolicæ, quod nunquam licuit, nunquam factum est." That it was never done, proves not but that it may be done; but if it was never lawful to be done, then it was forbidden; for whatsoever is not forbidden is not unlawful: but if it was not in Scripture forbidden, then 'aliquando licuit,' 'it once was lawful;' and therefore is always so, if we speak of the divine law; and if Lucentius speaks of that, he ought to have considered it in the instance; but I suppose he means it of custom, or the ecclesiastical law; and therefore I meddle not with the thing, only I observe the method of his arguing.

54. (8.) 'An argument from the discourse of one single person omitting to affirm or deny a thing relating to that of which he had discourse, is no competent argument to prove that the thing itself omitted was not true:'—And therefore Ruffinus[s] had but a weak argument against the traduction of the soul when he argued thus; "Si anima quoque esset ex anima secundum illorum vanas opiniones, nunquam profecto hoc Adam præterisset. Nam sicut 'os ex ossibus meis, et caro de carne mea' dicebat, sic etiam 'anima ex anima mea' dicere potuisset. Sed tantùm hoc dixit quod sibi videlicet sciebat ablatum." "Adam seeing his wife, said, 'This is bone of my bone and flesh of my flesh;' for he knew what was taken from him; but he could have said, 'soul of my soul,' if the soul had been derived from him."—This, I say, is no good argument, unless every one must be supposed, when he says any thing, to say all that is true, and all that he knows: so that Ruffinus, in this particular, defended a good cause with a broken sword.

55. (9.) 'But if that, which is omitted in the discourse, be pertinent and material to the inquiry, then it is a very good probability, that that is not true that is not affirmed:'—When the Jews asked our blessed Saviour, 'Why do the disciples of John and of the Pharisees fast often, but thy disciples fast not,'—he gave an answer that related to the present state of things and circumstances at that time, and said nothing of their not fasting in the time of the gospel: from

[s] Lib. de Fide, n. 88.

which silence we may well conclude, that there is nothing in the religion disobliging Christ's disciples from fasting; if it had, it is very likely it would have been then expressed when there was so apt an occasion, and the answer had been imperfect without it. St. Jerome's [a] was also very good, but not so certain as the other, against the tale of Leo baptized after his death, and the periods of Paul and Tecla; "Igitur periodos Pauli et Teclæ et totam baptizati Leonis fabulam inter apocryphas Scripturas computamus. Quale enim est ut individuus comes apostoli inter cæteras ejus res hoc solum ignoraverit?" It is not likely that St. Luke, who continually attended on St. Paul, observed all his actions, remarked his miracles, described his story, should omit things so strange, so considerable, if they had been true.

56. The reason of these things is, 'Every thing is to be suspected false that does not derive from that fountain, whence men justly expect it, and from whence it ought to flow.'—If you speak of any thing that relates to God, you must look for it there where God hath manifested himself; that is, in the Scriptures. If you speak of any human act or ordinance, or story and matter of fact, you must look for it in its own spring and original, or go the nearest to it you can. And thus the bishops, at the conference had with the Acephali, heretics who had churches without bishops, refused their allegations of the authority of Dionysius the Areopagite [b], upon this account; "Illa testimonia quæ vos Dionysii Areòpagitæ dicitis, unde potestis ostendere vera esse sicut suspicamini? Si enim ejus essent, non potuissent latere beatum Cyrillum. Quid autem de beato Cyrillo dico, quando et beatus Athanasius, si pro certo scisset ejus fuisse, ante omnia in Niceno concilio de consubstantiali Trinitate eadem testimonia protulisset adversus Arii diversæ substantiæ blasphemias? Si autem nullus ex antiquis recordatus est ea, unde nunc potestis ostendere quòd illius sunt, nescio:" "If neither St. Cyril nor St. Athanasius, who were so diligent to inquire, so skilful in knowing, so concerned that these books should be the works of St. Dionysius, did yet know nothing of them, and if amongst the ancients they were not known,—for you moderns now to tell of antiquity, what by them who then lived was not told, is a folly that can never

a Lib. de Script. Eccles. in Luca. b C. Pli. An. Dom. 532.

gain credit amongst reasonable persons. Let every fruit proceed from its own root. We cannot say, because a thing is not in Scripture, therefore it is not at all; but therefore it is nothing of divine religion. So it is also in things relating to the ancient church; from thence only can we derive any notice of their doctrine and of their practices. For if an article prevailed in St. Austin's time, it was no argument that therefore it was believed in St. Cyprian's time: but a negative argument from any age ought to prevail in reference to that age; and if there be in it nothing of antiquity, no argument of the moderns can prove it to be ancient: and Baronius said well, "Quod à recentiori auctore de rebus antiquis, sine alicujus vetustioris auctoritate, profertur, contemnitur," "What the moderns say of the ancients without warranty from themselves, is to be despised."—One thing only I am to add to this out of Vincentius Lirinensis [c]; "Quicquid vero ab antiquo deinceps uno præter omnes, vel contra omnes sanctos novum et inauditum subinduci senserit, id non ad religionem sed ad tentationem potius intelligat pertinere;" "If one of the fathers say a thing, and the others say it not, but speak diversely or contrarily, that pertains not to religion, but to temptation."—I doubt not but he intended it against St. Austin, who spake things in the matter of predestination, and the damnation of infants, and other appendant questions, against the sense of all the fathers that were before him; one, it may be, or scarce one, being excepted. And to the same purpose Tertullian [d] argued against Marcion, concerning a pretended gospel of St. Paul; "Et si sub ipsius Pauli nomine evangelium Marcion intulisset, non sufficeret ad fidem singularitas instrumenti destituta patrocinio antecessorum:" "If you cannot bring testimony from the fathers and ancient records, you must not receive it; one alone is not to be trusted." He that affirms must prove; to him that denies, a negative argument is sufficient. For to a man's belief a positive cause is required, but for his not believing, it is sufficient that he hath no cause. Thus St. Jerome [e] argues well against the rebaptizing of converted heretics: "Ad eos venio hæreticos, qui evangelia laniaverunt—quorum plurimi vivente adhuc Johanne apostolo eruperunt,

[c] Commonit. cap. 5. [d] Lib. 4. cap. 2. contr. Marcion.
[e] Dial. adv. Luciferianos.

et tamen nullum eorum legimus rebaptizatum:" "Of all the heretics which appeared in St. John's time, we never read of any that was rebaptized:" and therefore it is to be presumed they were not; for a thing so considerable and so notorious, in all reason would have given some signs, and left some indications of it. But then it is to be observed,

57. (10.) 'A negative argument must not be *μέσον μερικὸν*, a partial or a broken piece of a medium:'—You cannot argue rightly thus, 'St. John in his gospel speaks nothing of the sacrament of the Lord's supper, therefore that sacrament is no part of the doctrine of salvation.' For three evangelists had done it before him, and therefore he did not; and a negative argument only from one Gospel cannot conclude rightly concerning any article of the religion. And it is very evident in matters of fact also. For if it be argued thus, 'We do not find in Scripture nor in the days of the apostles any infant baptized; therefore we conclude there was none;' this is *μέσον μερικόν*. It is true, if there were no way else to find it but the practice of the apostles, the negative argument had been very good; but we derive it from the force of Christ's words of institution, and of his discourse with Nicodemus, and the analogy of circumcision, and the practice of the Jews in baptizing their children, and many proprieties of Scripture, and the effect of the sacrament, and the necessities of regeneration. St. Irenæus's[f] negative argument was good; "Quod neque prophetæ prædicaverunt, neque Dominus docuit, neque apostoli tradiderunt," &c. "If neither Moses nor the prophets, Christ nor his apostles, have taught it, it is not to be received as any part of Christian doctrine."—For this negative is integral and perfect. But St. Cyril[g] of Alexandria disputed also well with his negative argument from antiquity, "Etenim nomen hoc Θεοτόκος nullus unquam ecclesiasticorum doctorum repudiavit: qui autem illo subinde usi sunt, et multi reperiuntur, et maxime celebres:" "Many famous doctors used this word, calling the Virgin Mary the parent of God; and none ever refused it; therefore it may safely be used." If the negative argument from Scripture or antiquity respectively can run thus, 'It was not condemned in Scripture or antiquity, but it was used, therefore [illegible]' the argument concludes rightly in rela-

[illegible]

[f] Primâ parte Concil. Ephes. cap. 25.

tion to Scripture, and probably in relation to antiquity. But if it be said only, 'The Scripture condemns it not;' but neither does it approve it, then it cannot be concluded to be laudable, but only not criminal. But if it be said of antiquity, 'It was neither condemned nor used,' it cannot be inferred from them, that it is either laudable or innocent. The reason is, because Scripture is the measure of lawful and unlawful, but the writings of the doctors are not; and these may be deficient, though that be full.

58. (11.) 'In the mysteries of religion, and in things concerning God, a negative argument from Scripture ought to prevail both upon our faith and upon our inquiries, upon our belief and upon our modesty:'—For as St. Austin said well, "De Deo etiam vera loqui periculosissimum," "It is hard to talk many things of God:" we need have good warranty for what we say; and therefore it is very fit we speak Scripture in the discourses of God. And thus St. Austin[h] argued; "Ideo nusquam scriptum est quod Deus Pater major sit Spiritu Sancto, vel Spiritus Sanctus sit minor Deo Patre: quia non sic assumpta est creatura, in qua appareret Spiritus Sanctus, sicut assumptus est Filius hominis." Since it is no where written that the Father is greater than the Spirit, we ought not to say he is. But if it be objected, that neither does the Scripture say, that he is not greater, it does not say that they are equal; and therefore it will be hard to use a negative argument in such cases; and how shall we know which part of the negative to follow,—I answer, It is very true according to the sixth proposition, numb. 52.; but then, in this case, we must inquire for other words of Scripture by which we may be directed, and proceed accordingly, or inquire into the analogy of faith, or the measures of piety: but if there be nothing to determine to any side of the negative, we must say nothing: and if there be, yet we must say but little, because the notice is not great.

59. (12.) Lastly, 'In matters of envy and burden, a negative argument, even in matter of fact, ought to prevail, unless the contrary be proved by some other competent topic;' —That the clergy ought not to marry is no where affirmed in Scripture, and therefore it is permitted; and because it is agreeable to nature and the laws of all republics, their mar-

[h] Lib. 2. de Trinit. cap. 6.

riage is also holy and pleasing to God. A burden must not be directly imposed; a man must not be frighted or scared into it. When our blessed Saviour reproved the Pharisees or imposing heavy burdens, such which God imposed not, he taught us the value of this argument; 'Ubi scriptum est?' 'Show us where it is written,' that this is displeasing to God: if it be no where forbidden, 'præsumitur pro libertate,' all men are as free as they were born. How this can be altered by the laws of man, will be afterward considered. In the meantime, God hath left us under no more restraints than are described in Scripture. This argument St. Chrysostom urges against the necessity of corporal afflictions to a contrite weeping penitent. "Lacrimas Petri lego, satisfactionem non lego:" "I read that St. Peter wept, I do not read that he imposed penances on himself."—The argument were good from this place, if the case be not special, or if it be not altered by some other consideration. This is also to be extended to such negative arguments as are taken from matter of fact in accusations, and criminal proceedings: not that it can of itself be great enough to prevail, but that the case is so favourable, that every little thing ought to be strong enough. Thus St. Athanasius[1] defended his decessor Dionysius; 'Et prius eorum auctorem Dionysium per hoc voluit esse purgatum, atque ab Arianorum crimine alienum, quod ipse non, sicut Arius, cum viveret, de impietate fuerat accusatus, aut de episcopatu dejectus, neque velut hæresim defendens, de ecclesia, sicut ille, decesserit, sed in ejus permanserit unitate:" "Dionysius was not accused while he was alive, he was not thrown from his bishoprick, he did not depart from the church, but remained in her communion; and therefore he was no Arian." But arguments of this nature, when the medium is so limited, and the instance so particular,—have their force only by accident. For this and the like negatives are good arguments when they are the best light in the question, that is, when nothing greater can be said against them, or when men are easy and willing to be persuaded; as in the questions of burden and trouble, all men ought.

Question III.

60. Whether there may be any new articles of faith: or

[1] Apud Facundum, lib. 10. cap. 5.

that the creed of the church may so increase, that what is sufficient to salvation in one age, cannot serve in another.

61. If this question were to be determined by witnesses, it were very easy to produce many worthy ones. Theodorus the bishop of Rome, in his synodical epistle to Paul the patriarch of Constantinople, thus concludes against the Monothelites; "Sufficit nobis fides quam sancti apostoli prædicaverunt, concilia firmaverunt, et patres consignaverunt;" "That which the apostles preached, which the councils have confirmed, which the fathers have consigned, that faith is sufficient for us:"—therefore nothing new can be superinduced. After the apostles had done preaching, the faith was full and entire. It was so long before they died; but, after their death, the instruments were sealed and ratified, and there could be nothing put to them, but our obedience and consent. And therefore Victor bishop of Carthage, in his synodical epistle to Theodorus, gives caution against any thing that is new. "Vestrum est itaque, frater sanctissime, canonica discretione solita contrariis catholicæ fidei obviare, nec permittere noviter dici, quod patrum venerabilium auctoritas omnino non censuit:" "You must not permit any thing to be newly said, which the authority of the venerable fathers did not think fit."—If therefore the fathers did not say it was necessary to believe any other articles than what they put into their confessions of faith; he that says otherwise now, is not to be suffered. Excellent therefore is the counsel of St. Cyprian[k]: "As it happens when the pipes of an aqueduct are broken or cut off, the water cannot run, but mend them and restore the water to its course, and the whole city shall be refreshed from the fountain's head:" "Quod et nunc facere oportet Dei sacerdotes, præcepta divina servantes, ut si in aliquo nutaverit et vacillaverit veritas, ad originem Dominicam et evangelicam et apostolicam traditionem revertamur, et inde surgat actus nostri ratio, unde et ordo et origo surrexit;" "So must God's priests do, keeping the divine commandments: if the truth be weakened or fail in any thing, let a recourse be made to the original, to the fountain of Christ and his apostles, to what hath been delivered in the gospel; that thither our faith may return from whence it did arise."

[k] Epist. 74. ad Pompeium.

62. From the simplicity, truth, and ingenuity, of this discourse, it will plainly follow, that what was the faith at first, the same it is now and no other: "Sicut erat in principio," &c. "As it was in the beginning, so it is now, and so it shall be ever." For to what purpose can it be advised, that in all questions of faith or new springs of error, we should return to the fountains of our Saviour and the first emanations of the apostles, but because no divine truth is warrantable but what they taught, no necessity is to be pretended but what they imposed? If it was their faith, it is and must be ours; but ours it ought not to be, if it was not theirs.

63. Now concerning this, there are very material considerations. (1.) Whatsoever the apostles taught we must equally believe, if we equally know it: but yet all that they taught, is not equally necessary to be taught; but only so much as upon the knowledge of which good life is superstructed, and our hopes of heaven depend. Whatsoever is in the Scripture is alike true; but whatsoever is there, is not alike necessary, nor alike useful, nor alike easy to be understood. But whatsoever, by reading or hearing any other instrument, we come to learn to be the truth of God, that we must believe: because no man disbelieves any such thing, but he disowns God. But here the question is not, what we must believe when we know it to be the word of God, for that is every thing;—but how much we are bound to know what must be taught to all Christians, how much their memory and their hearts must be charged withal. For the faith of a Christian is not made up of every true proposition; but of those things which are the foundation of our obedience to God in Jesus Christ, and the endearment of our duty, and the stabiliment of our hope. Faith, hope, and charity, are the "fundamentum, paries, et tectum," "the foundation, the walls, and the roof," of our building: now this foundation is that necessary belief, without which nothing could subsist in our religion.

64. (2.) This foundation was by Christ and his apostles laid sure, but at first it was made but of a just latitude and evenness with the intended building. It was a little enlarged and paraphrased by the apostles and apostolical men in their days; the faith of Christians was the most easy and plain,

the most simple and wise, thing in the world: it was wholly an art of living well, and believing in God through Jesus Christ. And what Seneca said of the wisdom of the old men in infant Rome, is very true of the aborigines in Christianity, in the first spring of our religion; "Antiqua sapientia nihil aliud, quam facienda et vitanda, præcepit: et tunc longe meliores erant viri: postquam docti prodierunt, desunt boni:" "The ancient and primitive wisdom did only command virtue, and prohibit vice; and then men lived good lives: but when they became more learned, they became less virtuous[l]:" "Simplex erat ex simplici causa valetudo: multos morbos multa fercula fecerunt:" "The old world ate a simple and a natural diet, and they had a simple and a natural religion; but when variety of dishes were set upon the table, variety of diseases entered together with them." Now in what instance the simplicity of a Christian was at first exercised we find in St. Irenæus[m]: "Melius itaque est nihil omnino scientem quempiam, ne quidem unam causam cujuslibet eorum quæ facta sunt, cur factum, et credere Deo, et perseverare in ejus dilectione quæ hominem vivificat, nec aliud inquirere ad scientiam nisi Jesum Christum Filium Dei qui pro nobis crucifixus est, quam per quæstionum subtilitates et multiloquium in impietatem cadere:" "It is therefore better for a man to know absolutely nothing of the causes of things, why any thing was done (and to believe in God, and to persevere in his love, that makes a man to live, and to inquire after no knowledge, but to know Jesus Christ the Son of God, who was crucified for us), than by subtle questions and multitude of words to fall into impiety."

65. (3.) If we observe the creeds or symbols of belief that are in the New Testament, we shall find them very short. "Lord, I believe that thou art the Son of God, who was to come into the world[n];" that was Martha's creed. "Thou art Christ, the Son of the living God[o];" that was Peter's creed. "We know and believe that thou art Christ, the Son of the living God[p];" that was the creed of all the apostles. "This is life eternal, that they know thee the only true God; and whom thou hast sent, Jesus Christ[q];" that was the creed which our blessed Lord himself propounded. And again;

[l] Senec. ep. 95. §. 13. et 19. Ruhkopf. vol. 3. p. 219. [m] Lib. 2. cap. 45.
[n] John, xi. 26, 27. [o] Matt. xvi. 16. [p] John, vi. 69. [q] John, xvii. 3.

"I am the resurrection and the life: he that believeth in me, yea though he were dead, yet shall he live, and he that liveth and believeth in me, shall not die for ever[q]:" that was the catechism that Christ made for Martha, and questioned her upon the article, "Believest thou this?"—and this belief was the end of the gospel, and in sufficient perfect order to eternal life. For so St. John[r]; "These things are written, that ye might believe that Jesus is the Christ, the Son of God, and that believing ye might have life through his name." "For this is the word of faith which we preach, namely, if you with the mouth confess Jesus to be the Lord, and believe in your heart, that God raised him from the dead, you shall be saved[s];" that is the Christian's creed. "For I have resolved to know nothing amongst you, but Jesus Christ, and him crucified; that in us ye may learn not to be wise above that which is written, that ye may not be puffed up one for another, one against another." That was St. Paul's[t] creed, and that which he recommends to the church of Rome, to prevent factions and pride and schism. The same course he takes with the Corinthian[u] church; "I make known unto you the gospel, which I preached unto you, which ye have received, in which ye stand, and by which ye are saved, if ye hold what I deliver to you," &c. Well: what is that gospel by which they should be saved? It was but this, "that Christ died for our sins, that he was buried, that he rose again the third day," &c. So that the sum is this, The gentiles' creed, or the creed in the natural law, is that which St. Paul sets down in the Epistle to the Hebrews, "Deum esse, et esse remuneratorem," that "God is, and that God is a rewarder." Add to this the Christian creed, that Jesus is the Lord,—that he is the Christ of God,—that he died for our sins,—that he rose again from the dead;—and there is no question but he that believes this heartily, and confesses it constantly, and lives accordingly, shall be saved: we cannot be deceived; it is so plainly, so certainly, affirmed in Scripture, that there is no place left for hesitation. "For this is his precept, that we believe in the name of his son Jesus Christ, and that we love one another:" so St. John[x]. This is his precept. True, and so there are many more: but why

[q] John, xi. 25, 26. [r] John, xx. 31. [s] Rom. x. 8, 9.
[t] 1 Cor. ii. 2. [u] 1 Cor. xv. 1. [x] 1 John, iii. 23.

is this so signally remarked, but because this is the fundamental precept, that upon which all the rest are superstructed? that is the foundation of faith and manners, and he that keeps this commandment, shall never perish. "For other foundation can no man lay than this, which is Jesus Christ. But if any man should build upon this foundation; gold, silver, precious stones, wood, hay, stubble, every man's work shall be made manifest; for that day shall declare it; because it is revealed in fire; and every one's work the fire shall prove what it is. If any man's work which he hath superstructed, shall remain, he shall receive a reward. But if any man's work shall be burned, he shall receive loss, yet himself shall be saved, but so as by fire[y]." Nothing more plain, than that the believing in Jesus Christ is that fundamental article upon which every other proposition is but a superstructure, but itself alone with a good life is sufficient to salvation. All other things are advantage or disadvantage, according as they happen: but salvation depends not upon them. "For every spirit that confesseth Jesus Christ to have come in the flesh, is of God, and whosoever shall confess that Jesus is the Son of God, God abideth in him, and he in God[z]:" and, "Every one that believeth that Jesus is Christ, is born of God:" and, "Who is he that overcometh the world, but he that believeth that Jesus is the Son of God[a]?"

66. In proportion to this 'measure of faith,' the apostles preached 'the doctrine of faith.' St. Peter's first sermon[b] was, that "Jesus is Christ, that he was crucified, and rose again from the dead:" and they that believed this, were presently baptized. His second sermon was the same; and then also he baptized proselytes into that confession. And when the eunuch had confessed that Jesus Christ is the Son of God, Philip presently baptized him. And it is observable, that when the eunuch had desired baptism, St. Philip[c] told him, "he might, if he did believe:" and was, when he made that confession; intimating, that this is the Christian faith, which is the foundation of all his hope, and the condition of his baptism, and therefore sufficient for his salvation. For indeed that was the sum of all that Philip preached; for it is said of him, that "he preached things concerning the king-

[y] 1 Cor. iii. 11. 15. [z] 1 John, iv. 2. [a] 1 John, v. 1. 5.
[b] Acts, ii. 24. iii. 15. [c] Acts, viii. 12. 37, 38.

dom of God, and the name of Jesus Christ." And this was the sum of all that St. Paul preached in the synagogues and assemblies of the people; this he disputed for, this he proved laboriously,—that Jesus is Christ, that he is the Son of God, that he did, that he ought to, suffer; and rise again the third day; and this was all that new doctrine for which the Athenians and other Greeks[d] wondered at him, and he seemed to them to be a setter-forth of strange gods, "because he preached Jesus and the resurrection." This was it into which the jailer and all his house were baptized; this is it which was propounded to him as the only and sufficient means of salvation; "Believe in the Lord Jesus, and thou shalt be saved and all thine house[e]." This thing was illustrated sometimes with other glorious things still promoting the faith and honour of Jesus, as, that he ascended into heaven, and shall be the judge of all the world. But this was the whole faith; Τὰ περὶ τῆς βασιλείας τοῦ Θεοῦ καὶ περὶ ὀνόματος τοῦ Ἰησοῦ Χριστοῦ, "The things which concerned the kingdom of God, and the name of Jesus Christ," was the large circumference of the Christian faith. That is, such articles which represent God to be our Lord, and Jesus Christ to be his Son, the Saviour of the world;—that he died for us, and rose again, and was glorified, and reigns over all the world, and shall be our judge, and in the resurrection shall give us according to our works;—that in his name only we shall be saved, that is, by faith and obedience in him, by the mercies of God revealed to the world in Jesus Christ: this is all which the Scripture calls necessary: this is that faith alone, into which all the church was baptized: which faith, when it was made alive by charity, was, and is, the faith, by which "the just shall live."

67. This excellent summary of faith we find also, but with a very little paraphrase, propounded as sufficient by St. Polycarp, in that excellent epistle of his to the Philippians, which St. Irenæus so much commends: "Fidei vestræ firmitas à principio usque nunc permanet, et sanctificatur in Domino Jesu Christo:" "This is the firmness of your faith from the beginning, which remains unto this day, and is sanctified in Jesus Christ." This St. Ignatius calls, "plenam de Christo cognitionem," "a full knowledge concerning Christ:"—then

[d] Acts, ix. 20. xvii. 2. [e] Acts, xvi. 31. [f] Ad Magnes.

he reckons the generation of the Son from God the Father before all worlds, his being born of the Virgin Mary, his holy life, his working miracles, his preaching one God even the Father, his passion and crucifixion, his death and resurrection, his ascension and sitting at the right hand of God; and that, in the end of the world, he shall rise again to judge the quick and the dead, and to give to every one according to their works. When he hath recited this, he adds, "Hæc qui plane cognorit et crediderit, beatus est;" "He that plainly knows these things, and believes them, is blessed."—And in another epistle[g], after the recitation of such another creed, he adds, "He that believes these things, is blessed that ever he was born."—Justin Martyr[h] affirms expressly, that if any man should even then live according to the law of Moses (I suppose he means the law of the ten commandments), so that he believe in Jesus Christ crucified, and acknowledge him for the Christ of God, to whom is given the judgment of all the world, he also shall possess the eternal kingdom.

68. The same creed, in more words, but no more articles, is recited by St. Irenæus[i] in his second and third chapters of his first book, saying that "the church, throughout all the world, being planted by the apostles to the ends of the earth, and by their disciples, have received this faith. He, of all the prelates that is most powerful in speech, cannot say any thing else; for no man is above his master: and he that is weak in speaking, cannot say less. For since the faith is one and the same, he that speaks much cannot say more, and he that speaks little must not say less."—And afterward speaking of some barbarous nations that had not the Scriptures, yet having this faith, which he there shortly recites, beginning with belief in God the Father, the Maker of the world, and in Jesus Christ, repeating the usual articles of his being born of the Virgin Mary, his being the Son of God, his reconciling God and man, his suffering under Pontius Pilate, his rising again, and being received into glory, and his last judgment; he adds, "Hanc fidem qui sine literis crediderunt, quantum ad sermonem nostrum barbari sunt; quantum autem ad sententiam et consuetudinem et conversationem propter fidem, sapientissimi sunt et placent

[g] Ad Philip. [h] Coll. cum Tryph. [i] Lib. 3. cap. 4.

Deo, conversantes in omni justitia, castitate et sapientia;" "They who believe this faith, are most wise in their sentence and custom, and conversation through faith; and they please God, living in all justice, chastity, and wisdom."

69. Here were almost two ages spent by this time, in which the most pestilent heresies, that ever did trouble the church, did arise; in which some of the questions were talked of and disputed, and which afterward, by the zeal of some that overvalued their own forms of speaking, passed into a faction; and yet in all this time, and during all that necessity, there was no more added to the Christian creed, no more articles for the condemnation of any new heresy: whatsoever was against this, was against the faith; but any thing else they reproved, if it were false, but did not put any more into their creed. And indeed they ought not. "Regula quidem fidei una omnino est, sola immobilis et irreformabilis, Credendi scilicet in unum Deum," &c. saith Tertullian[k]; "The rule of faith is altogether one, and immovable, and unalterable. This law of faith remaining, other things may be enlarged according as the grace of God multiplies upon us."—But for the faith itself, here consigned and summed up, the epistle of Celestine to Nestorius is very affirmative and clear, Ἡ πίστις παραδοθεῖσα παρὰ τῶν ἀποστόλων, οὔτε προσδήκην, οὔτε μείωσιν ἀπαιτεῖ, "The faith or creed delivered by the apostles, requires neither addition nor defalcation:" "Neque enim ulla extitit hæresis, quæ non hoc symbolo damnari potuit;" "There was never any heresy but this creed was sufficient for its condemnation," said the catechism of the archbishop of Triers.

70. This faith, passing into all the world, was preserved with great sacredness and great simplicity, no church varying from it at all: some indeed put some great things into it, which were appendages to the former; but the fullest and the most perfect were the creeds of Jerusalem and Rome, that is, the same which the Greek and Latin church use at this day. The first and the most simple forms were sufficient; but these fuller forms, being compiled by the apostles themselves, or apostolical men, and that from the words of Scripture, made no great alteration, the first were not too little, and these were not too much. The first was the thing

[k] De Veland. Virgin. cap. 1.

itself, which was of a declared sufficiency; but when the apostles were to frame an instrument of confession, *τύπον διδαχῆς*, "a form of doctrine," by way of art and method, they put in all that they, directed by the Holy Spirit of God, knew to contain the whole faith of a Christian. Now of this form, so described, so delivered, so received, the fathers of the church affirm that it is entire and sufficient, and nothing is to be added to it. "Ergo et cunctis credentibus, quæ continentur in præfato symbolo, salus animarum et vita perpetua bonis actibus præparatur," said the author of the epistle to St. James attributed to St. Clement; "To all, that believe those things contained in the foresaid symbol or creed, and do good deeds, salvation of their souls, and eternal life, is prepared."

71. And therefore this summary of faith was called, *τύπος διδαχῆς, ὁ κανὼν, ὑποτύπωσις ὑγιαινόντων λόγων, ἀναλογία πίστεως, γαλακτώδης εἰσαγωγὴ, παρακαταθήκη, στοιχεῖα τῆς ἀρχῆς τῶν λογίων τοῦ Θεοῦ, παραδοθεῖσα πίστις*, "regula fidei,—depositum,—breve evangelium,—the form or exemplar of doctrine,—the canon,—a description of sound words,—the proportion or measure of faith,—the milky way,—or the introduction of novices,—the elements of the beginning of the oracles of God,—the repository of faith,—the faith that was delivered to the saints,—the rule of faith, that which was intrusted to the church,—a short gospel." These and divers other appellatives of the creed were used by the ancient doctors, most of them taken out of Scripture. For what the Scriptures did affirm of the whole faith, that the fathers did apply to this creed, as believing it to contain all that was necessary. And as a grain of mustard-seed in little contains in it many branches, so also this faith, in a few words, involves all the knowledge—the necessary knowledge—of the Old and New Testament, saith St. Cyril[l]; and therefore he calls this creed, "traditionem sanctæ et apostolicæ fidei," "the tradition of the holy and apostolic faith." "Cordis signaculum, et nostræ militiæ sacramentum," so St. Ambrose[m] calls it, "the seal of our heart, and the sacrament of our warfare." St. Jerome[n] yet more fully: "The symbol of our faith and of our hope; which, being delivered by the

[l] Catech. 5. [m] Lib. 3. de Veland. Virgin. [n] Epist. ad Pammach.

apostles, it is not written with paper and ink, but in the fleshly tables of our hearts, after the confession of the trinity and unity of the church:" "Omne Christiani dogmatis sacramentum carnis resurrectione concluditur;" "The whole sacrament of the Christian doctrine is concluded with the resurrection of the flesh" to eternal life.—"Norma futuræ prædicationis:" so Ruffinus[o] calls it: "the rule of future preachings" appointed by the apostles; "et hanc credentibus esse regulam dandam statuunt," "they appoint this to be given as a rule to all believers:"—and again, This creed was "the token by which he should be known, who did preach Christ truly according to the rules of the apostles;" the indication of their faith and unanimity.—"Comprehensio fidei nostra atque perfectio," so St. Austin[p] calls it. "Virtus est sacramenti, illuminatio animæ, plenitudo credentium:" "The illumination of the soul, the fulness of believers, the comprehension and the perfection of our faith. By this the knot of infidelity is untied, by this the gate of life is opened, by this the glory of our confession is manifested." It is "tessera, signaculum, quo inter fideles perfidosque secernitur," said Maximus Taurinensis[q].—"Basis quædam et fundamentum immotum et inconcussum per universum orbem jactum:" so St. Cyril of Alexandria: "It is a badge and cognizance to distinguish the faithful from the perfidious; an immovable foundation laid for all the world:"—a divine or "celestial armour, that all the opinions of heretics may be cut off with this sword alone;" so St. Leo, bishop of Rome.—I could add very many more to this purpose; who please to require more, may see enough in Lucifer Calaritanus[r], Paulinus bishop of Nold[s], St. Austin's[t] book 'de Symbolo ad Catechumenos,' in Ruffinus's excellent exposition of the creed, Eucherius bishop of Lyons, in his first homily upon the creed, Petrus Chrysologus[u], Isidor of Seville[x], and in his Offices Ecclesiastical[y], Rabanus Maurus[z], the oration of Bernard Zane in the first session of the council of Lateran, in the discourse of the Greeks at the council of Florence[a], Cassianus 'de Incarnatione Domini;' Eusebius Gallicanus in his Homilies on the

[o] Expos. Symb. cap. 2.
[p] Serm. 115. de Temp. et serm. 131.
[q] De Tradit. Symb.
[r] Lib. 2. ad Constantium.
[s] Ep. 1. ad Afrum.
[t] Lib. 1. cap. 1.
[u] In his sixty-second homily.
[x] Lib. 6. Originum, cap. 9.
[y] Lib. 1. cap. 26. de Dominica Palmarum.
[z] Lib. 2. de Instit. Clericorum, cap. 56.
[a] Sess. 10.

Creed, published by Gaigneus chancellor of Paris, in Venantius Fortunatus's explication of it; and he may, if he please, add the two homilies which St. Chrysostom made upon the creed, and the great catechetical oration of St. Gregory Nyssen.

72. Now to what purpose is all this? The apostles compiled this form of words, all churches received them,—all catechumens were baptized into this faith,—in the Roman church they recited it publicly before their immersion, to this salvation was promised;—this was the sacrament of the Christian faith, the fulness of believers, the characteristic of Christians, the sign of the orthodox, the sword of all heresies and their sufficient reproof, the unity of belief, sufficient, full, immovable, unalterable; and it is that alone, in which all the churches of the world do, at this day, agree.

73. It is true, that the church of God did explicate two of the articles of this creed, that of the second and that of the third person of the Holy Trinity; the one at Nice, the other at Constantinople; one against Arius, the other against Macedonius; they did explicate, I say, but they added no new matter, but what they supposed contained in the apostolical creed. And, indeed, the thing was very well done, if it had not been made an ill example; they had reason for what they did, and were so near the ages apostolical that the explication was more likely to be agreeable to the sermons apostolical: but afterward the case was altered, and that example was made use of to explicate the same creed, till, by explicating the old, they have inserted new articles.

74. But all the while, it is consented to on all hands, that this only faith is sufficient. What can certainly follow from these infallible articles, is as certainly true as the articles themselves,—but yet not so to be imposed, because it is not certain that this or that explication is right, that this consequent is well deduced; or if it be certain to you, it is not so to me; and besides it is more an instrument of schism than of peace; it can divide more than it can instruct, and it is plainly a recession from the simplicity of the Christian faith, by which simplicity both the learned and the ignorant are the more safe. "Turbam non intelligendi vivacitas, sed credendi simplicitas tutissimam facit[z]:" and when once we

[z] August. contra Ep. Fundam. cap. 4.

come to have the pure streams pass through the limbecs of human wit, where interest, and fancy, and error, and ignorance, and passion, are intermingled, nothing can be so certain, though some things may be as true; and therefore here the church does rest, here she finds peace; her faith is simple, easy, and intelligible, free from temptation, and free from intrigues; it is warranted by Scripture, composed and delivered by the apostles, entertained by all the world: in these they do agree, but in nothing else but this, and in their fountain, the plain words of Scripture.

75. For all the rest, it is abundant to all excellent purposes. It can instruct the wise, and furnish the guides of souls with treasures of knowledge, and employ the tongues and pens of the learned: it can cause us to wonder at the immensity of the divine wisdom, and the abyss of the revelation: it is an excellent opportunity for the exercise of mutual charity in instructing and in forbearing one another, and of humility and patience and prayer to God to help our infirmities, and to enlighten us more and more in the knowledge of God. It is the greater field of faith, where she can enlarge herself; but this is the house of faith, where she dwells for ever in this world.

76. So that, for any other thing of the religion, it is to be believed so far as it does appear to be the word of God; and, by accidents and circumstances, becomes of the family or retinue of faith: but it is not necessary to be believed for itself; unless it be for something else, it is not necessary at all. A man may be saved without knowing any thing else, without hearing of any thing, without inquiring after any thing, without believing any thing else, provided that, in this faith, he live a good life. But because sometimes a man is, by the interests of a good life, required to know more, to inquire after more, and to learn more,—therefore, upon the stock of obedience, more may be necessary; but not upon the account of faith. So that if some men do not read the Scriptures, and study them, and search into the hidden things of God, they sin against justice or charity,—but not against faith, if they retain all the articles of the Apostles' creed: and a man may be extremely to blame, if he disbelieve many other things; but it is, because, upon some evil account, he disbelieves it, and so is guilty of that sin, which is his evil principle,—as of pride, ambition, lust, covetousness, idle-

ness, fear or flattery; but a man is not, in any such case, guilty of heresy. For heresy being directly opposed to faith, and faith being completed in the articles of the Christian creed, it cannot be heresy, unless it be a contradicting of one of those articles in the words or in the sense, in the latter, or in the plain, visible, certain, and notorious explication of it. In the apostolical creed, all the Christian world is competently instructed: in these things there is no dispute; and if they be simply believed, as they are plainly delivered, it is the better. But in every thing else, every man, according to his calling and abilities, is to grow as much as he can in knowledge; that is, in edifying and practical knowledge: but in all things of speculation, he that believes what he sees cause for, as well and as wisely, as heartily and as honestly, as he can, may be deceived, but cannot be a heretic, nor hazard his salvation. "Salus ecclesiæ non vertitur in istis. In simplicitate fides est, in fide justitia: nec Deus nos ad beatam vitam per difficiles quæstiones vocat: in expedito et facili nobis est æternitas;" said St. Hilary[a]: "Faith is in simplicity, and righteousness in faith; neither does God call us to eternal life by hard questions: eternity stands ready and easily prepared."

77. For I consider, if any thing else were necessary to be believed unto salvation, this symbol could absolutely be of no use: but if any thing be added to it and pretended also to be necessary,—it cannot be entertained, unless they that add it and impose it, be infallible in their judgment, and competent in their authority: they must have authority equal to that of Christ, and wisdom equal to that of the apostles. For the apostles, in the summary of faith, declared all that was, at that time, necessary; and if any man else makes a new necessity, he must claim Christ's power, for he only is our lawgiver: and if any declares a new necessity, that is not sufficient, unless he canal so make it so,—for declaring it supposes it to be so already; and if it was so at first, the apostles were to blame not to tell us of it; and if it was not so at first, who made it so afterward?

78. But it is infinitely necessary, that, for the matter of faith, necessary and sufficient faith, we rest here and go no further. For if there can be any new necessities, then they

[a] Lib. 2. de Trin. in Princ.

may for ever increase, and the faith of a Christian shall be like the moon, and no man be sure, that his faith shall not be reproved; and there shall be innumerable questions about the authority of him that is to add, of his skill, of his proceeding, of the particular article, of our own duty in inquiring, of our diligence, of our capacity, of the degrees of our care, of the competency of instruments, of choosing our side, of judging of questions: and he that cannot inquire diligently, and he that cannot judge wisely, and he that cannot discern spirits, and he that fears, and he that fears not,—shall all be in danger, and doubt, and scruple; and there shall be neither peace of minds nor churches, as we see at this day in the sad divisions of Christendom; and every man almost damns all but his own sect, and no man can tell who is in the right, men dispute well on both sides; and just and good and wise men are opposed to one another; and every man seems confident, but few men have reason: and there is no rest; and there can be none, but in this simplicity of belief which the apostles recommended to all the world, and which all the world does still keep in despite of all their superinduced opinions and factions: for they all retain this creed, and they all believe it to be the summary of faith.

79. But the church of Rome pretends to a power of appointing new articles of faith[b]; and for denying this, Pope Leo X. condemned Luther in his bull added to the last council in Lateran. For "ad solam auctoritatem summi pontificis pertinet nova editio symboli," "a new edition of the creed belongs to the sole authority of the pope of Rome;" so Aquinas:—and Almain most expressly, "The popes of Rome, by defining many things which before lay hid," "symbolum fidei augere consuevisse," "are wont to enlarge the creed."—For "doctrina fidei admittit additionem in essentialibus," saith Salmeron; "the doctrine of faith admits addition even in essential things."—And in consequence to those expressions, they did add the article of the procession of the Holy Ghost from the Son, in a synod at Chantilly in France; and twelve articles to the creed in the council of

[b] 2. 2æ. q. 1. a. 10. August. Tri. de Ancona, q. 59. art. 1. Novum symbolum condere solum ad papam spectat, quia est caput fidei Christianæ, cujus auctoritate omnia, quæ ad fidem spectant, firmantur et roborantur. Idem art. 2. Sicut potest novum symbolum condere, ità potest novos articulos supra alios multiplicare. Tom. 13. part. 3. disp. 6. sect. Est ergo.

Trent, with the preface and postscript of the Athanasian creed damning all, that do not equally believe the creed of Trent as the creed of the apostles.

80. What effect and impress the declaration of any article by the church hath, or is to have, upon the conscience, shall be discoursed under the title of ecclesiastical laws; but that which is of present inquiry, is,—'Whether any thing can be of divine faith in one age that was not so in the age of the apostles:'—and concerning this it is that I say, that it is, from the premises, evident, that nothing can make any thing to be of divine faith but our blessed Lord himself,—who is therefore called "the author and finisher of our faith;" he began it, and he made an end. The apostles themselves could not do it;—they were only stewards and dispensers of the mysteries of God; they did rightly divide the word of life, separating the necessary from that which was not so; so that their office in this particular was only to declare what was necessary and what was not; no man, and no society of men, could do this but themselves, for none but they could tell, what value was to be set upon any proposition: they were to lay the foundation, and they did so; and they built wisely upon it; but when they commanded that we should keep the foundation, they only could tell us which was it, and they did so by their sermons, preaching the same doctrine to the simple and the crafty, and by immuring the necessary doctrine in a form of words, and consigning it to all the churches where they preached the gospel.

81. For we see that all the world is not able to tell us how much is necessary, and how much is not, if they once go beside the Apostles' creed: and yet it was infinitely necessary, that, at first, this should be told, because there were so many false apostles, and every one pretended authority or illumination, and every one brought a new word and a new doctrine; and the apostles did not only foresee, that there would be, but did live to see and feel, the heresies and the false doctrines obtruded upon the church, and did profess it was necessary, that such false doctrines should arise: and against all this that they should not provide a universal remedy, is at no hand credible, and yet there was none but the creed; this all the church did make use of, and professed it to be

that summary of faith, which was a sufficient declaration of all necessary faith, and a competent reproof of all heresies that should arise.

82. But then that, after all this, any one should obtrude new propositions, not deducible from the articles of the creed, not in the bowels of any article, neither actually expressed nor potentially included, and to impose these under pain of damnation, if this be not κυριεύειν τῆς πίστεως, which St. Paul[c] said he had no power to do, "to have dominion or lordship over the faith," and κατακυριεύειν τῶν κλήρων, "to lord it over God's heritage," which St. Peter[d] forbade any man to do, I confess I do not understand the words, nor yet saw or ever read any man that did. I conclude this with those excellent words of Justinian which are in the code, part of the imperial law by which almost all the world was long governed: Ὀρθὴ καὶ ἀμώμητος πίστις, ἥνπερ κηρύττει ἡ ἁγία τοῦ Θεοῦ καθολικὴ καὶ ἀποστολικὴ ἐκκλησία, κατ' οὐδένα τρόπον καινισμὸν δεξαμένη, "This right and irreprehensible faith (speaking of the apostolical creed, part of which he there recites) which the holy catholic and apostolic church of God does preach, can by no means receive any innovation or change[e]."

83. I conclude therefore this question; in our inquiries of faith, no man's conscience can be pressed with an authority but of Christ enjoining, and the apostles declaring, what is necessary. I add also, that the apostles have declared it in this form of words, which they have often set down in their writings, and which they more largely described in their Symbol of Faith. For since, as Sixtus Senensis[f] says, "omnes orthodoxi patres affirmant symbolum ab ipsis apostolis conditum," that "all the orthodox fathers affirm the creed to be made by the apostles," and they all say this is a sufficient rule of faith for all Christians; here we ought to rest our heads and our hearts, and not to intricate our faith by more questions. For as Tertullian[g] said well, "Hæc regula à Christo, ut probabitur, instituta nullas habet apud nos quæstiones nisi quas hæreses inferunt, et quæ hæreticos

[c] 2 Cor. i. 24. [d] 1 Pet. v. 3.
[e] Cod. lib. 1. de Sum. Trinit. sect. Cum recta.
[f] Lib. 2. Biblioth. 5. [g] Lib. 1. advers. Hæret. cap. 13.

faciunt;" "Heretics make disputes, and disputes make heretics, but faith makes none."—For if upon the faith of this creed all the church of God went to heaven, all I mean that lived good lives,—I am sure Christ only hath the keys of hell and heaven; and no man can open or shut either, but according to his word and his law: so that to him that will make his way harder by putting more conditions to his salvation, and more articles to his creed, I may use the words of St. Gregory Nazienzen: "Tu quid salute majus quæris? gloriam nempe quæ illic est et splendorem: mihi vero maximum est ut salver, et futura effugiam tormenta. Tu per viam incedis minime tritam et incessu difficilem: ego vero per regiam, et quæ multos salvavit:"—"What dost thou seek greater than salvation?" (meaning, by nice inquiries and disputes of articles beyond the simple and plain faith of the Apostles' creed)[h] "It may be, thou lookest for glory and splendour here. It is enough for me, yea the greatest thing in the world, that I be saved and escape the torments that shall be hereafter. Thou goest a hard and an untrodden path: I go the King's high-way, and that in which many have been saved."

RULE XV.

In the Law of Christ there is no Precept, that wholly ministers to the Law of Moses; but for a Time only, and less principally.

1. This rule I received from St. Irenæus; and they are his words as near as I could translate them. "In lege Christi, non est ullum præceptum veteri tantum legi inserviens, nisi ad horam et minus principaliter." For our blessed Saviour descended like rain upon a fleece of wool, and made no violent changes, but retained all the morality that he found amongst his countrymen; he made use of their propositions, spake their proverbs, united their ejaculations into a collect of his own,—for almost every word of the Lord's prayer was taken from the writings of the pious men of their nation; he changed their rites into sacraments; their customs into mysteries; their washings he made our baptism; their pas-

[h] See Liberty of Prophesying, sect. 1.

chal supper he converted into the holy eucharist: and still because he would be understood by them, he retained the Mosaic words, when he delivered a Christian precept; for he knew his Father would send his Holy Spirit to be an interpreter; and when the types of Moses passed into the substance of Christ, then the typical words also would be expounded in the senses of evangelical duties.

2. For indeed it is not reasonable to suppose, that our blessed Saviour,—who came to fulfil the law in his own person, and to abolish it in his disciples, to change the customs of Moses, and to be an eternal lawgiver in the instances of moral and essential natural rectitudes,—would give a new commandment to confirm an old precept which himself intended to extinguish. No man puts a piece of new cloth to an old garment, nor a new injunction to an abrogated law; that is, no wise master-builder holds up with one hand, what he intends to pull down with both: it must therefore follow, that whatever Christ did preach, and affirm, and exhort, was, although expressed in the words of the law, yet wholly relative to the duty and signification of the gospel. For that which St. Hilary [1] said of all the words of Scripture, is particularly true in the sense now delivered of the sermons of Christ: "Sermo enim divinus secundum intelligentiæ nostræ consuetudinem naturamque se temperat, communibus rerum vocabulis ad significationem doctrinæ suæ et institutionis aptatis. Nobis enim, non sibi, loquitur: atque ideo nostris utitur in loquendo:" "God speaks to us, and not to himself; and therefore he uses words fitting to our understandings:"—by common and usual expressions and such as were understood, he expressed precepts and mysteries which otherwise were not to be understood.

3. Thus when our blessed Saviour delivers the precept of charity and forgiveness, he uses this expression, "When thou bringest thy gift unto the altar, and there rememberest that thou hast any thing against thy brother, leave thy gift at the altar, go and be reconciled to thy brother, and then come and offer thy gift." If Christ had said, "When thou comest to the Lord's supper, and hast any thing against thy brother," &c. he had not been understood: but because we know this is an eternal precept, part of a moral and eternal ex-

[1] In Psal. cxxvi.

cellency, a duty of Christianity and a portion of Christ's institution, and we know that Christ pulled down the Jewish altars and the sacrifice of beasts by the sacrifice of his eternal priesthood, and we also are sufficiently instructed by what instruments and by what ministries the memory of that is conserved, and the benefits of it conveyed;—therefore we also are sure, that by these words, Christ intended to command us to be at peace with our brother and with our enemy, when we come to offer prayers and to celebrate the memorial of his eternal sacrifice.

4. So when our blessed Saviour told the parable of Dives and Lazarus, and intended to represent unto his disciples, that we are to expect salvation by the ordinary ministries of the church, and not to expect it by the way of miracle and extraordinary dispensation;—he was pleased to say, "They have Moses and the prophets, let them hear them." This was all which could be said to them, whose Scriptures were completed in the writings of Moses and the prophets: but when our great Master had, by his Holy Spirit and by his apostles and disciples, perfected another instrument of salvation and repository of divine truths, the proposition is to be enlarged to these. They have Christ and his apostles, they have the Gospels and Epistles, let them hear them; for if they will not hear and obey them speaking in the Scriptures, neither will they be converted though one arise from the dead, and appear to them in the terrible dresses of affrightment.

5. When Christ whipped the buyers and sellers out of the temple, and urged the words of the prophet, "My Father's house shall be called the house of prayer to all nations; but ye have made it a den of thieves:" although this was spoken to the Jews, and of their temple, yet Christ, who knew this temple was to be destroyed, and not a stone left upon a stone, intended the piety of his commandment should last longer than the dying temple; and therefore it is to be translated wholly to the Christian sense. And although he would not have the temple profaned so long as it was standing and used for prayer and divine service, 'ad horam,' as St. Irenæus's expression is, even for 'an hour,' taking care of that because it was a holy place: yet the sacredness and holy usage of the temple were less principally intended; but principally Christ regarded the Christian oratories and separate

places of devotion; that where God, by public appointment and the laws, was to be worshipped, there the affairs of the world should not intrude by the interests of a private and a profane spirit.

RULE XVI.

The Laws of Jesus Christ are to be interpreted to the Sense of a present Obedience according to their Subject-matter.

1. THAT which is true to-day, will be true to-morrow; and that which is in its own nature good or necessary to-day, is good or necessary every day: and therefore, there is no essential duty of the religion but is to be the work of every day. To confess God's glory, to be his subject, to love God, to be ready to do him service, to live according to nature and to the gospel, to be chaste, to be temperate, to be just, these are the employment of all the periods of a Christian's life. For the moral law of the religion is nothing but the moral law of nature; as I have already proved[k]. "Naturaliter lex nostra est lex pietatis, justitiæ, fidei, simplicitatis, caritatis, optimeque instituta," said Cardan[l]: and again; "Christiani Jovem junctum habent cum sole, illiusque diem colunt Dominicum: sol autem significat justitiam et veritatem; Christiana autem lex plus continet veritatis, et simpliciores reddit homines."—The Christian law is nothing else but a perfect institution of life and understanding; it makes men wise, and it makes them good; it teaches wisdom, and it teaches justice; it makes them wise and simple, that is, prudent and innocent, and there is no time of our life in which we are permitted to be otherwise. Those who, in the primitive church, put off their baptism till the time of their death, knew that baptism was a profession of holiness, and an undertaking to keep the faith, and live according to the commandments of Jesus Christ; and that as soon as ever they were baptized, that is, as soon as ever they had made profession to be Christ's disciples, they were bound to keep all the laws of Christ, and therefore that they deferred their baptism, was so egregious a prevarication of their duty,—that as, in all

[k] Chap. 1. and 2. of this book. [l] De Astror. Jud. lib. 2. tit. 54.

reason, it might ruin their hopes, so it proclaimed their folly to all the world. For as soon as ever they were convinced in their understanding, they were obliged in their consciences. And although baptism does publish the profession, and is like the forms and solemnities of law; yet a man is bound to live the life of a Christian, as soon as ever he believes the doctrine and commandments of Christianity; for indeed he is obliged as soon as he can use reason, or hear reason. The first things a man can learn, are some parts of Christianity; nor to hurt any one, to do all that he can understand to be good; that is, as soon as ever he begins to live like a rational creature, so soon he begins to live as Christ commanded: and since baptism (as to this relation and intention of it) is nothing else but the publication of our undertaking to do that, which, in our very nature and by the first and universal laws of God to mankind, we are obliged to refuse to be baptized, or to defer it, is nothing but a refusing or deferring to own our natural obligation, a denying or not accepting the duty of living according to the law of nature; which deferring, as it must needs be, the argument of an evil man, and an indication of unwillingness to live worthily,—so it can serve really no prudent ends to which it can fallaciously pretend. For Christianity, being in its moral part nothing but the perfection of the natural law, binds no more upon us than God did by the very reason of our nature. By the natural law we are bound to live 'in holiness and righteousness all the days of our life,' and so we are by the Christian law; as appears in the song of Zachary and in very many other places;—and therefore although, when some of our time is elapsed and lost in carelessness and folly, the goodness of God will admit us to second counsels, and the death of Christ and his intercession will make them acceptable; yet Christianity obliges us to obedience as soon as the law of nature does, and we must profess to live according to Christianity, as soon as we can live by the measures of the natural law, and that is even in the very infancy of our reason; and therefore baptism is not to be deferred longer: it may be sooner, because some little images of choice and reason, which must be conducted by the measures of nature, appear even in infancy; but it must not be deferred longer; there is no excuse for that, because there can be no reason for so

doing, unless where there is a necessity, and it can be no otherwise.

2. The effects of this consideration are these. (1.) All the negative precepts of Christ's law are obligatory in all persons, and all periods, and all instances. "Nunquam licuit, nunquam licebit;" "It was and is and ever will be unlawful" to do any action, which God forbids to be done: and therefore to say, 'I will be chaste when I am old, I will be temperate when I am sick, I will be just when I am rich, I will be willing to restore when I die,' is to measure eternity by time, and to number that which is not. In negatives there is neither number, nor weight, nor measure: and not to kill, not to blaspheme, not to commit adultery, hath no time, and hath no proportion.

3. (2.) This is also true in the positive commandments of Christ, in respect of the inward duty; that is never to be deferred. The charity of alms, the devotion of prayer, piety to our parents, love of God, love of our neighbour, desires to do justice; these are not limited to times and opportunities. The habits of them and the dispositions to action, the readiness and the love, must for ever be within; because these are always possible, and always good, and always necessary, and therefore cannot have accidental determinations from without; being works of the inward man, they depend only upon the grace of God and the will of man; and that never fails, if this does not, and therefore are always possible unless we will not; but they are always necessary, whether we will or no.

4. (3.) The external actions of duty are determinable from without, and by things which are not in our power, and by things which will not happen always and in some instances, by our own will and mere choice. Thus a man is bound actually to restore but in certain circumstances; but to be ready and to love to do it, he is always bound. To say our prayers is limited by time and place, by occasions and emergent necessities, by use and custom, by laws and examples: but to depend upon God, to expect all good from him, to glorify him, to worship him with all our heart, is not limited, but may be done in all the actions of our life, by actual application, or habitual intention, by secret purpose, or by open profession, by obedience and by love, or by the voice and hand. For to "pray continually," which is the precept of our blessed

Saviour, is obligatory in the very letter, in proportion to the natural possibilities and measure of a man; that is, in all our actions we must glorify God, which is one of the parts of prayer, and we must endear his blessing, which is the other. But to kneel, or to speak, or actually to think, a prayer, being the body of this duty, and determinable by something from without, receives its limit according to the subject-matter; that is, when we are commanded, and when we have need, and when we can, and in the proper season of it.

5. This rule is also otherwise explicated by distinguishing the affirmative precepts of Christ, into universal and particular. Particular precepts are to be acted only in their proper determinations, in special times, and pertinent occasions, because they are always relative to time and place, or person; they have a limited effect, and are but parts of a good life, and therefore cannot alone work out our salvation, but must give allowance of time and action to others, of the like particular and limited nature and effect.

6. But this is otherwise in the universal and diffusive, or transcendent precepts of the religion, though they be affirmative. He that shall say, that because to love God is an affirmative precept, that it is only obligatory in certain accidents, and times, and cases, and that therefore we are not always bound to love God, by the impiety of his conclusion reproves the folly of his proposition. Neither is it sufficient to say, that we are indeed always bound to the habitual love of God, but not always to the actual; not always to do an act of the love of God. For the love of God does not consist only in the fancy or the passionate part, neither is it to be measured by the issues of any one faculty: and though we are not bound to the exercise of an act of passion, or intuition, or melting affection, that is, we are not always tied to a limited, particular, single effect of one grace, in all times; yet we are bound to do an act of love to God, when we are bound to do any act at all; for all our religion, and all our obedience, and all our conversation, is wholly to be conducted by the love of God: and although to love God be an affirmative commandment, yet because it is a transcendent or universal precept, and includes in it all those precepts, which, by binding at several times, fill up all our time, and every of them being an act of obedience, is consequently an act and

instance of our love to God, it follows, that there is no time, in which we are not bound to love God; and to exercise acts of this grace does not depend upon times and circumstances.

7. Upon the accounts of this rule it is very opportune, and certainly very useful, to inquire concerning the duty of repentance; for upon this article the whole question of late or death-bed repentance will depend, and consequently the eternal felicity or infelicity of mankind: and therefore, I have reason to reckon this to be the greatest case of conscience in the whole world; and it will appear so both in the event of the discourse, and in the event of things.

Question I.

8. At what time precisely is every sinner bound to repent of his sins, so that if he does not repent at that time, he commits a new sin?

9. To this question of "At what time," the church of Rome answers, "At what time soever." For repentance is as the precept of baptism and prayers. Neither this day nor to-morrow precisely is it necessary to be baptized, but sometime or other; and if we pray half an hour hence, it is as much obedience as if we fall down upon our knees at the instant of the proclamation. Add to this, that since repentance (besides that it is an affirmative commandment) is also a primitive duty, it is generally agreed upon "neminem in conscientia, donec condemnetur, ad pœnam exsolvendam teneri;" "no man is bound to undergo his punishment, till the instant that the law determines him:" and therefore, when he is required, when the day of humiliation comes, when there is danger, that if it be not now done, it will not be done at all, then let the sinner look to it,—then he must repent, it cannot be any longer put off. This is the doctrine of the Roman schools, and of some others, which they have pursued to dangerous and horrid propositions.

10. Scotus and his scholars say a man is bound to repent upon holidays, as upon Christmas, Whitsuntide, or at Easter to be sure. But Sotus and Medina very confidently reprove this proposition as too severe, for this reason; because the church having appointed many holidays, yet when she explicates the doctrine of repentance, she did suppose it to be sufficient to compel the sinner to repent once by the year:

and although the end why the festivals are ordained, is the inward sanctification of the soul, "hæc tamen non id est, quod per præceptum de observatione festorum injungitur," "this is not it which was enjoined by the precept concerning festivals," saith Reginaldus[m]: "for the church (saith he) commanded only the means to this interior holiness;"—so that if you do the outward work, it matters not, as to the precept of the church, whether that end be acquired or no: you disobey the church, if you do not hear mass; but though you be never the better, so you do but hear mass, she does not find herself grieved.

11. By the way, it is observable that Scotus and the more severe part of them, which affirm a man to be bound to repent on every holiday, do not intend to say that by the law of God men are so bound, but by the law of the church only. Medina and the looser part deny the church to have determined this affirmative and indefinite commandment of repentance to so much severity. But as to the law of God, they all pronounce a man to be free to repent once for all; once he must, but when that once shall be, God hath not set down: and since God left it at the greatest liberty, they do not believe that the church is so severe as some pretend, neither do they think it fit she should; but if they never repent till the article of death, they prevaricate no command of God. For "vera, atque adeo, ut expressit Navarrus in Enchir. cap. 1. n. 31. omnium communis sententia est, tempus in quo peccator conteri tenetur (intellige per se, seu vi specialis præcepti de contritione à Deo dati) esse imminentem articulum mortis naturalis, vel violentæ;" so Reginaldus[n]: "The true and common opinion of all men is, that the time in which a sinner is bound to have contrition for his sins," meaning in respect of any divine commandment, "is the article of imminent death, whether natural or violent."—And in the meantime, "there is no precept commanding that a sinner should not persevere in enmity against God: there is no negative precept forbidding such a perseverance[o]."—Nay worse, if worse be possible, "even to resolve to defer our repentance," "velle pœnitentiam differre, nolleque nisi ad aliquod tempus pœnitere," "and to refuse to repent till

[m] Vide Reginaldum in praxi fori Pœnitent. lib. 5. de Contritione, cap. 2. sect. 4.
[n] Lib. 5. cap. 2. sect. 4. n. 23. [o] Idem, sect. 3. n. 21.

such a day, is but very little sin," saith Sotus; "it is none at all," saith Medina; it is neither an act of impenitence, nor at all unlawful.

12. These are sad stories to be told and maintained by Christian families, but therefore the more carefully to be looked to, because it is concerning the sum of affairs, and an error here is worse than an oversight in a day of battle: for repentance being the remedy for all the evils of our soul, if the remedy be ordered so as that it come too late, or deferred till the disease increase to an intolerable and an incurable evil, the state of our soul must needs be without remedy; and that in our philosophy is equivalent to desperation.

13. But before I reprove these horrid doctrines, which so entirely and without dispute prevail in some churches, I am to say two things. 1. If God hath left the time of our repentance and return so wholly without care and provision, though by the doctrine of some Roman doctors the church hath been more careful of it, and more severe than God himself, yet neither the care of the church nor the ordinary provisions and arrests, made by God, can ever be sufficient to cause men to live well in any tolerable degree. For if God binds you only to repent in the day of your death, or if he, to hasten it, will affright you with a popular judgment upon the neighbourhood,—all those that escape the sickness, and all that have but little or no reason to fear it, and all those that can fly from it, shall not repent, and indeed shall not be tied to it. And if we consider the event and impressions usually made upon our cities and villages by any popular judgment, we shall find so very many to be unconcerned, that if this be the time of repentance, the duty will upon this account go but slowly forward; very many shall have no need to do it; and none will do it but they that have: and if the fear of imminent death be the only period, we may easily perceive what ill provisions are made for repentance, when even dying men will hardly believe that they shall die yet, but hope for life, till their hopes and powers of working expire together. But then because it is pretended that the church hath made better provisions, and tied all men to communicate at Easter, and consequently to repent by way of preparation to the holy communion; I confess that the church can only tie them to the outward signification of repentance, as confession,

and the appendages of that intercourse; and if they omit the inward and more spiritual and essential part of this great duty, they may for this sin as well as for the other repent in the day of death, and that is sufficient for the performance of the divine commandment. And since the church requires no more but a periodical and a ritual repentance, the repentance of a Christian will be like the Persian feast, which they called 'vitiorum interitum,' 'the destruction of impiety;' upon the anniversary of which feast they killed all the venomous creatures they could find, but they let them alone to swarm till that day come again: and that is the event of these ritual and anniversary repentances; at a set time there is a declamation made against sin, and some significations of the evil of it expressed, but when the solemnity is over, it returns in all the material instances; and there is no help for it in this doctrine, nor in the customs and usages of those churches that entertain it. So that this doctrine must be acknowledged as a destroyer of good life: and though I know no artifices of escape from this, that are made use of, yet if there were, we are not to consider what is talked amongst schoolmen, to excuse the objection, and to maintain the faction, but what is really and materially the event of it, as it is every day observed in the manners of men.

14. The other thing which I was to say is this, that this doctrine of the Roman schools, which is the common sentence of them all, cannot be directly confuted, unless we fall upon this proposition—'that a man is positively and directly bound to repent of his sin, as soon as ever he hath committed it.'—

15. For if there be not something in the nature of sin, that must not be retained at all; if there be not much in the anger of God, that must not be endured at all; if there be not obligations to the service of God, that must not be put off at all; if there be not great regards concerning the love of God, without which we must not live at all; and lastly, if there be not infinite dangers in our life, and that every putting our repentance off exposes it to the inexcusable danger of never having it done at all; then it must follow, that repentance obliges no otherwise than alms, or saying our prayers,—it is to be done in its own proper season; and the consequent of that will be, that so it be done at all, we are safe

enough if it be done at any time; and if you can defer it till to-morrow, you may also put it off till the next day, and so until you die. And there is no avoiding it, as is evident to all rational and considering persons: for to-morrow and to-day are both alike as to the affirmative command; and by God's law we are not bound to it till the day of our death, if we be not bound to it every day. We must therefore choose our proposition. Does God give us leave, if we have sinned, to dwell in it, to forget our danger, to neglect the wound that putrifies? Is he pleased that we, for whom he hath given his Son,—we, whom he hath adopted into his family and made members of Christ,—we, to whom he perpetually gives his grace,—whom he invites by his promises, and calls by his preachers every day, and affrights by his threatenings every hour, and incites by his Spirit, and makes restless by the daily emotions of an unquiet conscience;—that we, whom he every day obliges, and no day neglects, to do something towards our amendment and salvation; if he, I say, pleased, that we should, in despite or contempt of all this, abide in his displeasure, and dwell in that state of evil things, that if, on any hour of so many days and weeks and months and years, we chance to die, we die again and die for ever? Is this likely? Does God so little value the services of our life, the vigour of our youth, the wisdom of our age, the activity of our health, the employment of our faculties, the excellency of our dwelling with him? Does he so little estimate the growth in grace, and the repetition of holy acts, the strength of our habits, and the firmness of our love, that he will be satisfied with an accidental repentance, a repentance that comes by chance, and is certain in nothing but that it certainly comes too late? But if we may not defer our repentance to the last, then we must not defer it at all, we must not put it off one day: for if one, than twenty,—if twenty, then twenty thousand; there is no reason against one, but what is against all: but if we may not stay a thousand days, then not one hour; and that is the thing I shall now contend for.

16. (1.) I remember an odd argument used by Reginaldus[p], to prove that a man is not bound to be contrite for his sins as soon as he remembers them; "because (says he) if he

[p] Ubi supra, sect. 3.

were, then it were but ill provided by God and the church, that preachers should call upon men to confess their sins, to be sorrowful for them, and utterly to leave them: for there is no question but such discourses will often remind us of our sins; and if we were then tied to repent, and did sin by not repenting, then such preachings would be the occasion of many sins, and the law would be an intolerable commandment, and Christ's yoke not to be endured; because men do not find it so easy to repent upon every notice:" so he.—But this consideration, turned with the right end forwards, is an excellent argument to enforce the duty, which I am now pressing of, a present actual repentance. For does God send preachers who every day call upon us to repent, and does not God intend we should repent on that day he calls to do it? Do the prophets and preachers of righteousness bid us repent next year? Have they commission to say, 'It were well and convenient if you would repent to-day; but you do not sin if you stay till next year, or till you are old, or till you die?' To what purpose then do they preach? Does not God require our obedience? Do we not sin if the preachers say well and right, and we do it not? Is there any one minute, any one day, in which we may innocently stay from the service of God? Let us think of that. Every day on which a sinner defers his repentance, on that day he refuses to be God's servant: and if God does command his service every day, then he every day sins on which he refuses. For unless God gives him leave to stay away, his very staying away is as much a sin as his going away, that is, his not repenting is a new sin.

17. And if by way of objection it be inquired, 'By what measures or rules of multiplication shall such sins be numbered? whether by every day, and why not by every night, or why not by every hour, or every half-hour?' I answer, that the question is captious and of no real use, but to serve instead of a temptation. But the answer is this; 1. That the sin of not repenting increases by intension of degrees, as the perpetuity of an act of hatred against God. He that continues a whole day in such actual hostility and defiance, increases his sin perpetually, not by the measures of wine and oil, or the strokes of the clock, but by spiritual and intentional measures; he still more and more provokes God, and

in the eternal scrutiny God will fit him with numbers and measures of a proportionable judgment. 2. The sin of not repenting is also multiplied by extension; for every time a man does positively refuse to repent, every time a man is called upon or thinks of his duty and will not do it, every such negative is a new sin, and a multiplication of his scores: and it may happen that, every day, that may become twenty sins, and in a short time rise to an intolerable height.

18. (2.) He that remembers he hath committed a sin, either remembers it with joy or with displeasure. If with displeasure, it is an act of repentance; if with joy, it is a new sin; or if it be with neither, the man does not consider at all. But if it abides there, the sin will be apt to repeat its own pleasures to the memory, to act them in the fancy, and so endear them to the heart: and it is certain that all active considerations declare on one side or other, either for the sin or against it; and the devil is not so backward at tempting, and the pleasure of sin is not so inactive, but if ever it be thought upon without sorrow, it cannot easily be thought upon without some actual or potential delight: and therefore he that repents not, does sin anew. He that hath stolen is bound presently to restore if he can, and when it is in our hand it must also be in our heart to restore, and the evil must not be suffered so much as for an hour to dwell upon the injured person: so it is in the restitution of our hearts and our affections to God; there is an injustice done to God all the way by our detaining of his rights, the injury is upon him, he complains that we will not come in, and is delighted if we come speedily. Restitution therefore must be made presently; and for the satisfaction and amends for the wrong besides, God may longer expect, even till the day of its proper period.

19. (3.) Does not God, every day, send something of his grace upon us? Does he not always knock at the door of our hearts, as long as the day of salvation lasts? Does not he send his Spirit to invite, his arguments to persuade, and his mercies to endear, us? Would he have any thing of this lost? Is it not a sin once to resist the Holy Spirit? And he that remembers his sin, and knows it is an offence against God, and yet does not repent at that thought and that knowledge, does not he resist the Holy Spirit of God, so moving,

so acting, so insinuating? Is not every good sermon a part of the grace of God? "Qui monet, quasi adjuvat," says the comedy[q]; "He that counsels you, helps you:" and can it be imagined that he that resists the grace of God twenty years, is not a greater villain than he, that stood against it but twenty months, and so on to twenty days, and twenty hours? "Peccatorem tanto sequitur districtior sententia, quanto peccanti ei magna est patientia prorogata: et divina severitas eo iniquum acrius punit, quo diutius pertulit," saith St. Gregory: "The longer God hath expected our repentance, the more angry he is if we do not repent;"—now God's anger would not increase, if our sin did not. But I consider, must not a man repent of his resisting God's grace, of his refusing to hear, of his not attending, of his neglecting the means of salvation? And why all this, but that every delay is a quenching of the light of God's Spirit, and every such quenching cannot be innocent? And what can be expounded to be a contempt of God, if this be not; that when God, by his preventing, his exciting, his encouraging, his assisting grace, invites us to repentance, we nevertheless refuse to mourn for our sins and to repent? This is the very argument which the Spirit of God himself[r] uses, and therefore is not capable of reproof or confutation. "Because I have called and ye refused, I have stretched out my hand and no man regarded: but ye have set at nought all my counsel, and would none of my reproof;—I will also laugh at your calamity, and mock when your fear cometh." Is not therefore every call to be regarded? and consequently is not every refusing criminal? and does not God call every day? Put these things together, and the natural consequent of them is this, that he who sins and does not repent speedily, does at least sin twice, and every day of delay is a further provocation of the wrath of God. To this purpose are those excellent words of St. Paul[s], "Despisest thou the riches of his goodness and forbearance and long-suffering, not knowing that the goodness of God leadeth thee to repentance?" That is, 'every action of God's loving-kindness and forbearance of thee, is an argument for, and an exhortation to, repentance;'—and the not making use of it is called by the Apostle;

[q] Plautus, Curculio. act. 3. 89. Schmieder, page 207.
[r] Prov. i. 24. [s] Rom. ii. 4.

"a despising of his goodness;" and the not repenting is on every day of delay, "a treasuring up of wrath."

Αἶψα γὰς ἐν κακότητι βροτοὶ καταγηράσκουσι.

"Men wax old and grow gray in their iniquity," while they think every day too short for their sin, and too soon for their repentance. But (if I may have leave to complain) it is a sad thing to see a man who is well instructed in religion, able to give counsel to others, wise enough to conduct the affairs of his family, sober in his resolution concerning the things of this world, to see such a person come to church every festival, and hear the perpetual sermons of the gospel, the clamours of God's Holy Spirit, the continual noise of Aaron's bells ringing in his ears; a man that knows the danger of a sinner if he dies without pardon, that the wrath of God cannot be endured, and yet that without a timely and sufficient repentance it cannot be avoided; to see such a man day after day sin against God, enter into all temptations, and fall under every one, and never think of his repentance, but unalterably resolve to venture for it, and for the acceptance of it at last: for it is a venture whether he shall repent; and if he does, it is yet a greater venture whether that repentance shall be accepted, because without all peradventure in that case it can never be perfected. But the evil of this will further appear in the next argument.

20. (4.) He that does not repent presently, as soon as he remembers and considers that he hath sinned, does certainly sin in that very procrastination, because he certainly exposes himself to a certain and unavoidable danger of committing other and new sins. And therefore I cannot but wonder at the assertors of the opposite doctrine, who observe this danger, and signify it publicly, and yet condemn such persons of imprudence only, but not of sin. The words of Reginaldus[b], and according to the sense of Navarre, are these; "Ad quod tamen tempus pœnitentiam differre esse salutem animæ in magnum discrimen adducere patet per illud quod ex D. Augustino refertur in cap. Siquis: et cap. finali de Pœniten. dist. 7. dubiam esse salutem illorum quos non ante sed post ægritudinem pœnitet. Ratio vero esse potest quod in eo cernatur interpretativus contemptus Dei, qui sæpius per gratias

[b] Lib. 5. prax. fori Pœnit. cap. 2. sect. 4. n. 23.

prævenientes illos excitat ac movet ad resipiscentiam, agendamque pœnitentiam, conterendumve de suis peccatis: nihilominus non curant atque negligunt:" "He that defers his repentance brings his soul into manifest and great danger, according to the doctrine of St. Austin; for it is an interpretative contempt of God, who often excites them by his preventing graces, to repent and do penance, and to be contrite for their sins, but they neglect it and care not." Now since thus much is observed and acknowledged, it is a strange violence to reason and to religion, that it should not also be confessed to be the design and intention of God, his will and pleasure, the purpose of his grace, and the eoonomy of heaven, the work of his Spirit, and the meaning and interpretation of his commandment, that we should repent presently. For when the question is concerning the sense and limit of an indefinite commandment, what can be a better commentary to the law than the actions of God himself? for he understands his own meaning best; and certainly by these things he hath very competently and sufficiently declared it.

21. If it be objected that these actions of the divine grace are not sufficient to declare it to be a sin not to do it, whenever the grace of God prompts us to repent, because we find that the Spirit of God does use rare arts to invite us forward to such degrees of perfection and excellency, to which whoever arrives shall be greatly rewarded, but if a man falls short, he does not sin; I reply, that the case is not the same in the matter of counsel, and in the matter of a commandment: for when the question is concerning the sense and signification, the definition and limit, of that which is acknowledged to be a commandment, the actions of the divine grace signifying God's pleasure and meaning, do wholly relate to the commandment: when the thing is only matter of counsel, then the actions of the divine grace relate to that, and are to be expounded accordingly. But thus they are alike; that as God by his arguments and inducements, his assistances and aids, declares, that to do the thing he counsels would be very pleasing to him; so they declare, that what he commands, is to be done, that he intends the commandment then to bind, that whenever the one is good, the other is necessary. But his pleasure which he signifies concerning a counsel, does not mean like his pleasure concerning a commandment; but

every thing according to the nature of the subject-matter: for God having left the one under choice, and bound the other by a law, whatever signification of the mind of God comes after this, must be relative to what he hath before established, and does not now alter, but only expound now what his meaning was before. Since therefore the question here is, to what precise time we are obliged in the precept of repentance, nothing is more reasonable than to conclude, that then God intended we should keep the precept, when he enables us, and exhorts and calls upon us, to do it, which because he by his grace and Holy Spirit does every day,—this declaration of God is the best commentary upon his commandment.

22. But to return to the first purpose of this argument. He that knows he hath sinned, and will not kill it by repentance, leaves the affections to sin remaining; an aptness to be tempted, a relation to the devil, a captivity to lust, and an impotency under his passion. For if sin be a cursed serpent, if it leaves any venom upon the spirit of the man, if by committing sin we are more apt to commit it still, he that hath sinned, and when he remembers it does not repent,—keeps himself in the dispositions to sin, he dwells in the temptation and the neighbourhood: and because every thing that invites and directly tends to sin, is symbolical and of the same nature, the retaining of that very aptness by not repenting the old, must needs be a progression and going on in sin, and therefore a new sin by interpretation.

23. And if we consider but the sad circumstances of those persons who wax old in carelessness and contempt of duty, how dead their spirit is, how every day they grow more unwilling to repent, how habitual their persuasions are in the behalf of sin, how accidentally hard they grow, and by perceiving so long an impunity, and that things remain as they were twenty years ago, and that though they sinned then, yet they are well still, and all the affrightments of the preachers' sermons are but loud noises and harmless thunder, they grow confident and still more careless; we shall find that their spirit is in delusion, and is continually, and still further, distant from the friendship of God. So sometimes we see a healthful body, by the disorders of one intemperate meeting, fallen into the beginnings of a sickness. The man, it may be, does so no more; but feeling his sickness tolerable, and under

the command of reason, he refuses to take physic, and to throw out the evil principle which begins to ferment in the disordered body: but nature being disturbed and lessened in her proper vigour, goes on in her usual methods as well as she can; she goes forward, but she carries a load, which in a long progression grows intolerable, not by its own weight, but by the diminution of nature's strengths. But when the evil is grown great, the physician is called for; who espying the evil state of things, is forced to reply, 'It is now very late, for nature is weak and the disease is strong. I shall do what art can minister, but I fear that nature is incapable of relief.' So it is in the soul; the very deferring of taking physic is an increasing of the disease. For every sin is 'ulcus,' Ἕλκος ἀπὸ τοῦ ἕλκειν, it is an 'ulcer,' and 'draws' all the humours thither for its increase and nourishment; and that which is sore, will swell, and all the waters will run to the hole in the bank, and every finger to the wound that smarts, and every eye to the thing we fear; and therefore it hath been observed by the wise guides of souls, that those persons who defer their repentance to their old age, their repentance comes off the harder, their penitential actions are the worse, their zeal colder, their care more indifferent, their religion less, their fears are trifling, their love stark and cold, their confessions formal and imperfect, every thing amiss, nothing right: but no repentance can be that which God intends, unless it begins betimes.

Vidi ego, quod fuerat primo sanabile, vulnus
Dilatum longæ damna tulisse moræ[c].

Any one disease if let alone, though there be no new sickness supervening, grows mortal by mere delay, and incurable for want of timely remedy.

24. (5.) Let us consider upon what account any man can defer his repentance and yet be innocent. It must either be because he loves his sin, or because he loves not God: because he either despises the divine justice, or presumes upon his mercy; because he hath evil principles, or because he will not obey those which are good. It is positive impenitence, or it is privative; it is hardness of heart, or it is effeminacy of life; it is want of fear, or want of love: and whatso-

[c] Ovid. Rem. Amor. 101. Mitscherl. vol. 1. p. 284.

ever can come from any of these causes or beginnings, can never be innocent. And therefore St. Ambrose's question was a good caution and a severe reproof: "Quid enim est quod differas? an ut plura peccata committas?" "Why do you defer your repentance? is it because you would commit more sins?" That is more likely.

Sed, quia delectat Veneris decerpere flores,
Dicimus assidue, 'Cras quoque fiet idem.'
Interea tacitæ serpunt in viscera flammæ;
Et mala radices altius arbor agit[d].

He that says he will not repent of his lust to-day, says, in effect, that he means to act it again to-morrow;—for why else should he put his repentance further off?

Quid juvat in longum causas producere morbi?
Cur dubium expectat cras hodierna salus?

If you really intend your cure, it is better to begin to-day than to-morrow: and why should any man desire to be sick one day longer? Whatever can be in it, it is a disease and a very sickness of itself. There can be no good excuse pretended for it. For if carelessness, if the neglect of holy things, can ruin us, as certainly a man may die with hunger as surely as by gluttony, by not eating at all as well as by eating too much, by omission as well as by commission, it will follow that the not repenting is fatal and damnable, because every delay is a not-repenting till that delay be gone.

25. (6.) The Scripturedoes every where call upon us for speedy repentance. For God that commands us to pray every day, consequently commands us to repent every day. This argument ought to prevail even upon the adversaries' account: for Navarre confesses[e], "Extra tempus articuli mortis, dantur casus, in quibus peccator conteri tenetur per aliud, sive ex vi alicujus præcepti quod peccator ipse transgreditur, aliquid agens non contritus."—When there is any distinct precept obliging a duty which cannot be done by him that is not penitent, he that directly obliges to that other duty, does indirectly and consequently at that very time oblige to repentance. Thus when the church obliges a priest to consecrate and to communicate, because he who does so without

[d] Lib. 1. de Remed. Amoris. 103.

[e] Apud Reginal. ubi supra.

repentance commits a deadly sin, the church accidentally ties him at that time to repent. From these premises I assume, that since God obliges us every day to pray, he also obliges us to do that, without which we cannot pray as God intends we should; that is, to throw away all our affection to sin, to repent of it and to forsake it. For "the prayer of a wicked man is an abomination to the Lord," said Solomon;—and "We know that God heareth not sinners," said he in the Gospel; that is, those who having sinned have not yet repented,

——— Infelix infelicior ut sit,

being unhappy in their hasty sin, but more unhappy in their slow repentance: but it is the prayer of the repenting man which God will hear; and therefore our blessed Saviour commanding us to pray, and teaching us how, enjoins us, that we, every day, pray for the forgiveness of our trespasses; as for our daily bread, so for our daily pardon: "Panem nostrum da nobis hodie," "Give us this day our proportion of bread;" and therefore also 'This day give us pardon;' for we must return 'to-day:' 'hodie' for 'bread,'—and 'hodie' for 'forgiveness' and amendment.—So the Psalmist, and so the Apostle in his words, "To-day hear his voice, and harden not your hearts;" not only expressly commanding us not to defer our repentance one day, but plainly enough affirming, that every such delay is an act of hardness of heart and obduration, and therefore a new sin superadded to the old. For although in nature and logic time consignifies, that is, it does the work of accidents and appendages and circumstances, yet in theology it signifies and effects too; time may signify a substantial duty, and effect a material pardon: but of all the parts of time we are principally concerned in the present. But it is remarkable, that though 'hodie' 'to-day' signifies the present time, yet the repentance which began yesterday, which took an earlier 'hodie,' is better than that which begins to-day: but that which stays till to-morrow is the worst of all.

"Ille sapit, quisquis, Postume, vixit heri[f].

For 'heri' and 'hodie,' 'yesterday' and 'to-day,' signifies "eternity:"—so it is said of Christ, "Yesterday and to-day,

[f] Martial, v. 59.

the same for ever."—But 'hodie' and 'cras,' to-day' and 'to-morrow,' signifies but "a little while."—"To-day and to-morrow I work," said Christ; that is, 'I work a little while;' and "the third day,"—that is, very shortly or quickly,—"I shall make an end."—That repentance is likely to prevail to a happy eternity which was yesterday and to-day, but if it be deferred till to-morrow, it begins late and will not last so long. To this purpose excellent are those words of Ben Sirach[s]; "Make no tarrying to turn unto the Lord, and put not off from day to day: for suddenly shall the wrath of the Lord come forth, and in thy security thou shalt be destroyed:" meaning, that 'every day of thy life may be the day of thy death, therefore take heed, and defer not until death to be justified,' for God oftentimes smites sinners in their confidence; he strikes them in their security, in their very delay they are surprised, in their procrastination they shall lose their hopes, and the benefit and usefulness of to-morrow. For what is vain man, that he should resolve not to repent till Easter? It may be, at that very time he so resolves there is an imposthume in his head or breast,—or there is a popular disease abroad that kills in three days,—or to morrow's dinner shall cause a surfeit,—or that night's drinking shall inflame his blood into a fever,—or he is to ride a journey the next day, and he shall fall from his horse and die,—or a tile in the street shall dash his brains out;—and no man can reckon all the possibilities of his dying suddenly, nor the probabilities that his life will end very quickly. This question therefore may be determined without the intrigues of disputation. Let a man but believe that he is mortal, let him but confess himself to be a man, and subject to chance, and there is no more required of him in this article, but the consequence of that confession. "Nemo Deo credens non se sub verbis ejus corrigit, nisi qui diu se putat esse victurum," saith St. Austin; "Whosoever believes in God, will presently amend his life at the command of God, unless he thinks he shall live long.—" But what if a man should live long? is it so intolerable a thing to live virtuously when we are to live long, that the hopes of life shall serve to no other end but that sin may be continued and repeated, and repentance may be delayed? That is the worst conclusion in the world from

[s] Eccles. v. 7.

such premises. But however, he that considers that so many men and women die young, will have but little reason to conclude to so evil and dangerous purposes from so weak and contingent principles. When Theramenes came out from his friend's house, the roof and walls immediately fell down. The Athenians espying the circumstances of that safety, flocked about him, congratulated his escape, and cried him up as a man dear unto the gods for his so strange deliverance from the ruin. But he wisely answered, "Nescitis, viri, ad quæ tempora et pericula Jupiter me servare voluerit;" "Ye know not, O Athenians, to what evils I am reserved." He said true; for he that had escaped the fall of a house in Athens, was, in a little while, condemned by the Ephori of Sparta to drink the cold and deadly hemlock; he passed but from one opportunity of death unto another.

Κοὐκ ἔστιν αὐτῶν, ὅστις ἐξεπίσταται
Τὴν αὔριον μέλλουσαν εἰ βιώσεται[h].

"No man can tell whether he shall live till to-morrow:" and to put off our repentance, when, it may be, there is at the very instant the earnest of death in thy heart or bowels, a stone ready formed, hardened and ripe in the kidneys, and will, before to-morrow morning, drop into the bladder,

Mors latet in mediis abdita visceribus,

"Death is already placed in the stomach,"—or is gone into the belly;—then, that is, in any case to defer repentance, is a great folly and a great uncharitableness, and a contempt of all the divine relations concerning heaven and hell. Μὴ πίστευε χρόνῳ, of all things in the world "do not trust to time."

——— Obrepsit non intellecta senectus;
Nec revocare potes, qui periere, dies[i].

In time there is nothing certain, but that a great part of our life slips away without observation, and that which is gone shall never come again. These things although they are dressed like the arguments of orators, yet they do materially and logically conclude, that if to be uncharitable be a sin, he that defers his repentance in so uncertain a life, and so certainly approaching death, must needs be a very great sinner upon that account, because he does not love himself, and therefore

[h] Eurip. Alcest. 799. Monk, page 90. [i] Auson. Epigr. 13. Delphin. pag. 13.

loves nobody, but abides without charity. But our blessed Saviour hath drawn this caution into a direct precept; "Agree with thine adversary ταχὺ 'quickly:'"—"The hope of eternity which now is in thy hand, may else be lost for ever, and drop through thy fingers before to-morrow morning. "Quanto, miser, in periculo versaberis, quamque inopinati rerum casus te abripient[k]!" "Miserable man, thou art in extreme danger, and unlooked-for accidents may end thy talkings of repentance, and make it impossible for ever."—A man is subject to infinite numbers of chances; and therefore, that we may not rely upon the future or make delays, let us make use of this argument,—'Whatsoever comes by chance, comes upon the sudden.'—

26. But because this discourse is upon the grounds of Scripture, it is of great force what was by the Spirit of God[l] threatened to the angel of the church of Ephesus; "Repent, for I will come unto thee quickly, and remove the candlestick out of its place unless thou dost repent:" that is, 'Unless thou repent quickly, I will come quickly.'—Who knows how soon that may be to any man of us all? and therefore it is great prudence and duty and charity to take care, that his coming to us do not prevent our return to him; which thing can never be secured but by a present repentance. And if it be considered that many persons as good as we, as wise, as confident, as full of health, and as likely to live, have been snatched away when they least did think of it, with a death so sudden, that the deferring their repentance one day hath been their undoing for ever: that if they had repented heartily, and chosen a good life clearly and resolvedly upon the day before their sudden arrest, it would have looked like a design of grace and of election, and have rendered their condition hopeful;—we shall find it very necessary that we do not at all defer our return, for this reason, because one hour's stay may, not only by interpretation but also in the real event of things, prove to be that which St. Austin called—"the sin against the Holy Ghost,"—that is, final impenitence. For as he that dies young, dies as much as he that dies after a life of fourscore years;—so is that impenitence final, under which a man is arrested under the infancy of his crime, as much as if, after twenty years' grace and expectation, the man be

[k] S. Greg. Naz. in Sanct. Bapt. [l] Rev. ii. 5.

snatched from hence to die eternally. The evil is not so great, and the judgment is not so heavy, but as fatal and as irreversible as the decree of damnation upon the falling angels.

27. (7.) When we see a man do amiss, we reprove him presently, we call him off from it at the very time, and every good man would fain have his unhappy friend or relative leave in the midst of his sin, and be sorry that he went so far; and if he have finished his sin, we require of him instantly to hate it, and ask pardon. This is upon the same account that God does it, because to continue in it, can be for no good; to return instantly hath great advantages; to abide there is danger, and a state of evil; to choose to abide there is an act of love to that evil state, and consequently a direct sin; and not to repent when we are admonished, is a choosing to abide there: and whenever we remember and know and consider we have sinned, we are admonished by God's Spirit and the principles of grace and of a holy religion. So that from first to last it follows certainly, that without a new sin, we cannot remember that we have sinned, unless then also we do repent: and our aptness to call upon others to do so, is a great conviction that every man is obliged in his own particular to do so.

Ἅπαντές ἐσμεν εἰς τὸ συβέττειν σοφοί·
αὐτοὶ δ' ἁμαρτάνοντες οὐ γιγνώσκομεν [m].

Since we are all wise enough to give good counsel, it will reproach us if we are not conducted by the consequences of our own wise advices. It was long first, but at last St. Austin fell upon this way; nothing could end his questions, or give rest unto his conscience, or life to his resolutions, or satisfaction to his reason, or definition to his uncertain thoughts, or a conclusion to his sin, but to understand the precept of repentance to oblige in the very present and at no time else. "Differens dicebam, 'modo ecce modo, sine paululum:' sed 'modo et modo' non habebat modum:" he would anon, and he would next week, and he would against the next communion; but there was no end of this: and when he saw it, "Sub fico stravi me flens, quamdiu, quamdiu cras, et cras? quare

[m] Menand. Bp. Taylor refers to *Menander* as the author of these two lines:—they belong to *Euripides*; the latter line should be read thus,—αὐτοὶ δ' ὅταν σφάλωμεν, οὐ γιγνώσκομεν.—Fragm. xxxiii. ex incert. trag. (J. R. P.)

non modo? quare non hac hora finis turpitudinis meæ?" "I wept and said, How long shall I say, 'To-morrow?' Why shall I not now, by present repentance, put an end to my crimes?" If not now, if not till to-morrow, still there is the same reason for every time of your health, in which you can say to-morrow. There is enough to determine us 'to-day,' but nothing can determine us 'to-morrow.'—If it be not necessary now, it is not necessary then, and never can be necessary till it be likely there will be no morrow-morning to our life. I conclude this argument in the words of the Latin anthology,

Converti ad rectos mores et vivere sancte
In Christo meditans, quod cupit acceleret.

He that would live well and be Christ's servant, must make haste, and instantly act what he knows he ought always to purpose, and more. To which purpose St. Eucherius gives this advice, which at first will seem strange; "Propound to yourself the example of the thief upon the cross: do as he did."—Yes, we are too ready to do so, that is, to defer our repentance to the last, being encouraged by his example and success. No: we do not as he did; that is a great mistake. It is much to be wished, that we would do as he did in his repentance. How so? St. Eucherius thus resolves the riddle; "Ad consequendam fidem non fuit extrema illa hora, sed prima." He did not defer his repentance and his faith unto the last; but in the very first hour in which he knew Christ, in that very instant he did believe and was really converted: he confessed Christ gloriously, and repented of his sins without hypocrisy: and if we do so too, this question is at an end, and our repentance shall never be reproved.

28. (8.) He that hath sinned, and remembers that he hath sinned, and does not repent,—does, all that while, abide in the wrath of God. God hates him in every minute of his delay. And can it consist with any Christian grace, with faith, or hope, or charity, with prudence or piety, with the love of God, or the love of ourselves, to outstand the shock of thunder, to outface the cannon, to dare the divine anger, and to be careless and indifferent, though he be hated by the fountain of love and goodness, to stand excommunicate from heaven? All this is beside the sin which he committed; all this is the evil of his not repenting presently. Can a man consider that

God hates him, and care not though he does, and yet be innocent? And if he does care, and yet will not remedy it, does not he then plainly despair, or despise it presumptuously? and can he that does so, be innocent? When the little boy of Xylander saw a company of thieves robbing his father's house, and carry away the rich vessels, and ten Attic talents, he smiled and whipped his top. But when a child who was in their company stole his top from him, he cried out and raised the neighbourhood.

Sic sunt qui rident, nec cessant ludere, sævus
Cum Satanas illis non peritura rapit.

'So is he that plays on and is merry, when his soul is in the possession of the devil:'—for so is every soul that hath sinned and hath not repented: he would not be so patient in the loss of his money, he would not trust his gold one hour in the possession of thieves, nor venture himself two minutes in a lion's power; but for his soul he cares not though it stay months and years in danger so great, as would distract all the wits of mankind, if they could understand it perfectly as it is.

29. (9.) If there were nothing else, but that so long as his sin is unrepented of, the man is in an unthriving condition, he cannot entertain God's grace, he cannot hope for pardon, he cannot give God thanks for any spiritual blessing, he cannot love his word, he must not come to the holy sacrament; if, I say, there were nothing else in it but the mere wanting of those excellences which were provided for him, it were an intolerable evil, for a man to be so long in the dark without fire and food, without health or holiness: but when he is all that while the object of the divine anger, and the right-aiming thunderbolts are directed against his heart from the bow in the clouds, what madness and what impiety must it needs be to abide in this state of evil without fear and without love!

30. (10.) The advice of St. Paul in the instance of anger hath something in it very pertinent to this article; "Let not the sun go down upon your wrath;" that is, do not sleep till you have laid aside your evil thoughts: for many have quietly slept in sin, who with horror and amazement have awaked in hell. But St. Paul's instance of anger is very material, and hath in it this consideration,—that there are some prin-

cipiant and mother-sins, pregnant with mischief, of a progressive nature; such sins which if they be let alone, will of themselves do mischief; if they be not killed, they will strike,—like as quicksilver, unless it be allayed with fasting, spittle, or some other excellent art, can never fix; now of these sins there is no question, but a man is bound instantly to repent; and there is no season for these, but all times are alike, and the first is duty. Now how many are thus, is not easily told; but it is easily told, that all are so of their own nature, or may be so by the divine judgment; and therefore none of them are to be let alone at all.

31. (11.) The words of St. Austin, which he intended for exhortation, are also argumentative in this question; "Hodiernum habes, in quo corrigaris,"—"You have this day for your repentance."—To-morrow you have not. For God did not command him that lived in the time of Samuel, to repent in the days of Moses; that was long before him, and therefore was not his time: neither did he command, that Manasses should repent in the days of the Asmonæi; they lived long after him, and therefore that could not be his time, or day of repentance. Every one hath a day of his own. But when we consider that God hath commanded us to repent, and yet hath given us no time but the present, we shall perceive evidently, that there is no time but the present, in which he intended we should obey him. Against this there can be no objection; for it is so in all our precepts whatsoever, unless there be something in the nature of the action, that is determinable by circumstances and particularities: but in this there is nothing of relation to time and place; it may be done at any time, and is of an absolute, irrespective nature, of universal influence, and of absolute necessity: and God could no more intend to-morrow to be the proper season of repentance, than he could intend the five-and-twentieth olympiad to be your day for it; for the commandment is present, and to-morrow is not present; and therefore unless we can suppose a commandment, and no time given us with the commandment for the performing it, we must suppose the present only to be it. If to-morrow does come, then when it is present, it is also the time of your repentance. By which it is infallibly certain, and must be confessed so by all wise and rational persons that know the consequences of

things, and the persuasion of propositions, that God in every present commands us to repent; and therefore in every present in which we remember our sin and repent not, we offend God, we prevaricate his intentions, we sin against his mercies, and against his judgments, and against his commandments. I end this with the plain advice of Alcimus Avitus;

> Dum patulam Christi cunctis clementia sese
> Præbet, præteritæ plangamus crimina vitæ,
> Pœniteatque olim negligenter temporis acti,
> Dum licet, et sano ingenioque animoque valemus.

In which words, besides the good counsel, this argument is insinuated, 'that because we must repent even of the days of our negligence, and be sorry for all our mispent time, and weep for having stayed so long from God,—it follows that the very deferring of our repentance, our very neglecting of it, is a direct sin, and increases the causes of repentance; and therefore makes it the more necessary to begin the sooner, by how much we have stayed the longer.'

Question II.

32. As an appendage to this great case of conscience, it is a useful inquiry to ask, Whether a man is bound to repent, not only the first time, but every time that he thinks of his sin?

33. I answer, that he is; but to several purposes; and in differing measures and significations. If he hath never repented, then upon the former accounts, every remembrance of his sin is a specification and limit to the indefinite and affirmative commandment; and the second thought of it, because the first not being attended to, hath increased the score, and the time being so much the more spent,—hath increased the necessity and the haste: and if the second be neglected, then the third still calls louder; and every succeeding thought does not only point us out the opportunity, and the still-proceeding season of doing it, but it upbraids every preceding neglect, and presses the duty stronger by a bigger weight of the same growing arguments. For no man is safe but he that repents at least to-day; but he was wise that repented yesterday. And as it is in human intercourse, he that hath done wrong, and runs presently to confess it, and offer amends,

shall have easier terms of peace than he that stands out at law, and comes not in till he be compelled: so it is in our returns to God; the speedy penitent shall find a ready and a prepared mercy, but he that stays longer, will find it harder, and, if he stays to the last, it may be, not at all. But then if we have repented at the first monition or memory of sin, we must never any more be at peace with it: it will perpetually make claim, it will every day solicit, it will break into a flame upon the breath of every temptation; it will betray thy weakness and abuse thy credulity; it will please thy fancy and abuse thy understanding; it will make thee sin again as formerly, or desire to sin, to fall willingly, or very hardly to stand; and after all, if thou hast sinned, thou art under a sad sentence, and canst not tell when thou shalt have a certain peace. So that whenever thou thinkest of thy sin, thou hast reason to be displeased, for thou art always the worse for it; always in danger, or always uncertain: thou hast always something to do, or something to undo; something to pray for, and many things to pray against. But the particular causes of a perpetual repentance for our past sins are reducible to these two.

34. (1.) Whenever we have sinned, and fallen into the divine displeasure, we dwell for ever after in the dark: we are sure we have sinned, and God's anger is plainly revealed against sinners: but we know not how far this anger will extend, nor when it will break out, nor by what expressions it shall be signified, nor when it will go off, nor at what degree of sorrow God will be appeased, nor how much industry shall be accepted, nor how many actions of infirmity shall be allowed;—nothing of this is revealed. But we are commanded to do an indefinite duty, we are to have an unlimited watchfulness, we are called upon to have a perpetual caution, a duty that hath no limit, but all our time and all our possibilities; and all the fruit of this is growing in the paradise of God, and we shall not taste it till the day of the revelation of the righteous judgment of God. In the meantime we labour and fear; we fear and hope; we hope and are uncertain; we pray and cannot see what will be the event of things. Sometimes we are confident; but that pertness comes, it may be, from the temper of the body, and we cannot easily be sure, that it comes from God: and when we are cast down, it may

be, it is nothing but an effect of the spleen, or of some hypochondriacal propositions, or some peevish company, and all is well with us, better than we think it is; but we are under the cloud, and, which is worst of all, we have always but too much reason to fear, and consequently to be grieved for, the causes of all this darkness, and all this fear, and all this danger.

35. (2.) Besides all this, our sin is so long in dying, and we kill it with such lingering circumstances, and reprieve it so often, and it is often laid aside only until the day of temptation, and our repentance is so frequently interrupted, or made good for nothing, and even in our weepings for sin we commit folly, that a man can never tell when he hath done, and when he is to begin again. For these reasons we find it very necessary to hate our sin perpetually, and for ever to deplore our calamity in the divine displeasure, to remember it with sorrow, and to strive against it with diligence. Our sins having made so great an alteration in our persons, and in the state of our affairs, we cannot be so little concerned as to think of them with indifference; a sigh at least, or a tear, will well become every thought; a prayer for pardon or an act of indignation against them; a 'Domine, miserere,' or a 'Me miserum peccatorem!' 'Have mercy upon me, O God,' or, 'Miserable man that I am!' something of hope, or something of fear. Own it but as a cause of sorrow, or an instance of thy danger; let it make thee more zealous or more patient; troubled at what is past, or cautious for the time to come: and if at every thought of thy sin it be not easy to do a positive act of repentance, yet the actions must be so frequent that the repentance be habitual; ever in preparation, and ever apt for action; seeking occasions of doing good, and omitting none; praying and watching against all evil, and committing none. At this rate of repentance a man must always live, and in God's time expect a freedom from sin, and a confirmation in grace. But then as to the main issue of the question;

36. It is not intended, that a man should, every time, weep when he thinks of his sins; sometimes he must give thanks to God for his escape, and rejoice in the memory of the divine mercies, and please himself in the promises of pardon, and do acts of eucharist and holy festivity. But

even these acts of spiritual joy, if they endear our duty, they destroy our sin; if they make us to love God, they make us to hate sin; if they be acts of piety, they are acts of repentance. So that when it is said, at every thought of your sin you must do something of repentance, if you do any act at all, this is nothing else but a calling upon us for the particulars, and to pursue the methods of a good life. For repentance is the conversion of the whole man, an entire aversation from evil, and a full return to God; and every action of amendment, every prayer for pardon, and every mortification of our desires, every observation and caution against danger, all actions of a holy fear, and every act of hope, even our 'alms and mercy to the poor, is a breaking off our sins[n],' and therefore an action of repentance. So that if there can be any time of our life, in which a sinner may not serve God and yet be innocent, then it will be allowed at some time to think of our sin and consider it, and yet not to do an act of repentance; but in no case else can it be allowed.

37. So that by this discourse we have obtained all the significations of 'hodie,' 'to-day,' and they all relate to repentance. For though it signifies the present time as to the beginning of this duty, yet it signifies our whole life after that beginning, that is our 'hodie,' 'to-day,' we must begin now and continue to do the same work all our days. Our repentance must begin this day by the computations of time, and it must not be put off one day, yet it must go on by the measures of eternity. As soon as ever and as long as ever we can say 'Hodie,' it is 'To-day,' so soon and so long we must repent. This is as certain in divinity as a demonstration in the mathematics.

38. The sum is this; If, by repentance, we mean nothing but sorrow, then it hath its season, and does not bind always to all times. But if, by repentance, we understand a change of life, to which sorrow is only instrumental and preparatory,—then it is our duty always to repent. That is, if you do any thing at all, it must be good: even to abide in goodness, to resolve not to sin, to love not to sin, to proceed or to abide in innocence by choice and by delight, by custom and resolution, are actions of an habitual repentance; but repentance is never safe till it be habitual, but then also it

[n] Dan. iv.

is so much the more perfect, by how much it is the more actual.

39. To conclude this inquiry, we must pray often, but we must repent always: and it is in these affirmative precepts as it is in the matter of life and eating; we must eat at certain times and definite seasons, but we must live continually. Repentance is the new life of a Christian; and therefore we must no more ask when we are bound to repent, than when we are by nature required to breathe. The motion must return speedily, or we die with strangling.

RULE XVII.

Because the Laws of Jesus Christ were delivered in Sermons to a single Person, or a definite Number of Hearers, we are curiously to inquire and wisely to understand, when those Persons were only personally concerned, and when they were Representatives of the whole Church.

1. This rule I learn from St. Austin[a]; "Erit igitur hoc in observationibus intelligendarum Scripturarum, ut sciamus alia omnibus communiter præcipi, alia singulis quibusque generibus personarum: ut non solum ad universum statum valetudinis, sed etiam ad suam cujusque membri propriam infirmitatem medicina pertineat:" "Some things are given to all; others but to a few; and some commands were to single persons and single states: God having regard to the well-being of societies, and to the health even of every single Christian."—That there is a necessity of making a distinction is certain; but how this distinction is to be made is very uncertain, and no measures have yet been described, and we are very much to seek for a certain path in this intricacy. If we do not distinguish precept from precept, and persons from states of life, and states of life from communities of men, it will be very easy for witty men to bind burdens upon other men's shoulders with which they ought not to be pressed; and it will be very ready for scrupulous persons to take loads upon themselves which appertain not to them,

[a] Lib. 3. de Doctrina Christiana, cap. 17.

and very many will dispute themselves out of their duty, and say, 'Quid ad me?' 'I am not concerned here;'—and the conscience shall be unguided and undetermined, while the laws of order shall, themselves, lie undistinguished and undiscerned in confusion and indiscrimination. There must be care taken of this; or else, cases of conscience will extremely multiply to no purposes but those of danger and restless scruple. The best measures that I know, are these;

2. (1.) There are some precepts, which are, by all men, confessed to be general, and some are every where known to be merely personal; and by proportion to these we can be helped to take account of others. When Abraham, as a trial of his obedience, was commanded to sacrifice his son, this was alone a commandment given to that man concerning that child, at that time, and to that purpose. So when he was commanded to forsake his country and go to Canaan, this was personal, and could not be drawn into example: and no man could think that if he should kill his son, or leave his country, he should be rewarded for his obedience. For the commandments given to persons are individuated as the persons themselves are, by time and place and circumstances, and a singular nature, a particular soul: so is the commandment also; it is made circumstantiate by all that is in and about it: and the reason of a man and his observation are the competent and final judge of these things; and no man is further required to look after significations of that which is notorious. Others also are as certainly and confessedly general; such as were the ten commandments to the children of Israel; they were given to all the people, proclaimed to the whole nation, expressly spoken to them all, exacted of them all, and under the same reason, and upon the same conditions. Now here are some proportions, by which we may guess at others.

3. (2.) For whatsoever related wholly to a person, or was determined by a circumstance, or was the relative of time, that passes no obligation beyond the limits and definitions of those circumstances. Upon this account, all the ceremonial and judicial laws of the Jews have lost their obligation. The service, that related to a temple that is now destroyed, and was to be performed by a priesthood that is expired,—can no longer be a law of conscience. Thus the command,

which Christ gave, that his brethren should follow him into Galilee after the resurrection, was wholly personal. The apostles were commanded to untie another man's ass, and without asking leave to bring him to Christ; the command was wholly relating to that occasion, and gives no man warrant to take another man's goods for pious uses without his leave. Circumstances are to actions like hedges to the grounds, they divide and defend, and assign every man's portion. And, in these cases, ordinary prudence is a sufficient guide.

4. (3.) Whatsoever precept was given to many, if it was succeeded to by another that is inconsistent, or of a quite differing nature and circumstance,—the former is, by the latter, declared to have been personal, relative, temporary, and expired; and nothing of it can be drawn into direct obligation. When our blessed Saviour sent out the seventy-two disciples by two and two, he commanded them to go without sword or shoes or bag, and that they should not go into the way of the gentiles. That these commandments were temporary and relative to that mission, appears by the following mission after Christ's resurrection; by which they received command, that they should go into the way of the gentiles, that they should 'teach all nations.' Therefore besides the special and named permissions in this second legation, as that they might now wear a sword, that they might converse with heathens,—it is certain that those other clauses of command, which were not expressly revoked, are not obligatory by virtue of the first sanction and commandment. And therefore if any man shall argue, 'Christ when he sent forth his disciples to preach, commanded that they should not go from house to house, but where they did first enter, there to abide till the time of their permitted departure,—therefore it is not lawful to change from one church to another, from a less to a greater, from a poorer to a richer,' will argue very incompetently and inartificially; for all the commandments then given were relative to that mission: and if any thing were inserted of a universal or perpetual obligation, it is to be attended to upon some other account, not upon the stock of this mission and its relative precepts.

5. (4.) It is not enough to prove a precept to be perpetual and general, that it is joined with a body of precepts that are

so, though there be no external mark of difference. Thus we find, in the ten words of Moses, one commandment for resting upon the seventh day from the creation: it is there equally prescribed, but fortified with reasons and authority, more laboriously pressed, and without all external sign of difference to distinguish the temporary obligation of this from the perpetuity of the other; and yet all the Christian church esteem themselves bound by the other, but at liberty for this day. But then we understand our liberty by no external mark appendant to the sanction, but by the natural signature of the thing. The nature of the precept was ceremonial and typical; and though to serve God be moral and eternal duty, yet to serve him by resting upon that day, or upon any day, is not moral; and it was not enjoined in that commandment at all that we should spend that day in the immediate service of God, and offices of religion: and it was declared by St. Paul, to be 'a shadow of good things to come;' and by our blessed Lord it was declared to be of a yielding nature, and intended to give place to charity and other moral duties, even to religion itself, or the immediate service of God. For though the commandment was a precept merely of rest, and doing no labour was the sanctification of the day,—yet that the priests in the temple might worship God according to the rites of their religion, they were permitted to work, viz. to kill the beasts of sacrifice, which Christ called profaning of the sabbath, and in so doing he affirms them to have been blameless. From hence, that is, from the natural signature of the thing commanded, and from other collateral notices, we come to understand that in the heap of moral and eternal precepts, a temporary, transient, and relative, did lie: and the reason why there was no difference made, or distinctive mark given in the decalogue, is because there was no difference to be made by that nation to whom they were given; but as soon as that dispensation and period was to determine, then God gave us those marks and notes of distinction which I have enumerated, and which were sufficient to give us witness. So that if a whole body of commandments be published, and it be apparent that most of them are general and eternal, we must conclude all to be so, until we have a mark of difference, directly or collaterally, in the nature of the thing, or in our notices from God: but when

we have any such sign, we are to follow it; and the placing of the precept in other company is not a sufficient mark to conclude them all alike. Thus it was also in the first mission of the disciples (above spoken of), in which the body of precepts was temporary and relative; but yet when our blessed Lord had inserted that clause, "Freely ye have received, freely give," we are not to conclude it to be temporary and only relating to that mission, because it is placed in a body of relative commandments: for there is in it something that is spiritual, and of an eternal decency, rectitude, and proportion; and we are taught to separate this from the other by the reproof, which fell upon Simon Magus, by the separate nature of spiritual things, by the analogy of the gospel, by the provisions which upon other accounts are made for the clergy and the whole state ecclesiastical, upon the stock of such propositions which provide so fully, that they cannot be tempted by necessity to suppose God left them to be supplied by simoniacal intercourses. If there be nothing in the sanction of the commandments or any where else, that can distinguish them, we must conclude them alike; but if there be any thing there or any where else, that makes an indubitable or sufficient separation, the unity of place does not make an equal obligation.

6. (5.) When any thing is spoken by Christ to a single person, or a definite number of persons, which concerns a moral duty, or a perpetual rite of universal concernment, that single person, or that little congregation, are the representatives of the whole church. Of this there can be no question; 1. Because as to all moral precepts they are agreeing to the nature of man, and perfective of him in all his capacities; and therefore such precepts must needs be as universal as the nature, and therefore to be extended beyond the persons of those few men. Now if it be inquired how we shall discern what is moral in the laws of God, from what is not moral, we may be assisted in the inquiry by the proper measures of it, which I have already described[p]. Those concern the matter of the commandment; here we inquire concerning the different relation of the commandment, when the sanction is the same with these which are of particular concernment; that is, here we inquire by what other distinction, besides the matter and nature of the thing, we are to separate general

[p] Lib. 2. chap. 2. rule 5. num. 65.

precepts from personal, perpetual from temporal, moral from relative. And thus to inquire, is necessary in the interpretation of the laws of Jesus Christ; because there are some precepts moral and eternal, which, nevertheless, are relative to particular states under the gospel.

But secondly; there are some precepts, which are not moral, but yet they are perpetual and eternal, and concern every man and woman in the Christian pale, according to their proportion; I mean, the precepts concerning the sacraments and other rituals of Christianity. In order therefore to these evangelical concerns it is to be noted, that whatsoever concerns every one by the nature of the thing, though it was at first directed personally, yet it is of universal obligation. Thus we understand all Christians, that have the use of reason, that is, which are capable of laws, and have capacities to do an act of memory, and symbolical representment, —to be obliged to receive the holy communion; because although the precept of "Do this," and "Drink this," was personally directed to the apostles, yet there is nothing in the nature of the communion, that appropriates the rite to ecclesiastics; but the Apostle explicates it as obliging all Christians, and it was never so understood, and practised accordingly: all are equally concerned in the death of Christ, and therefore in the commemoration of it, and thanksgiving for it. Now thus far is easy. But there are some interests, that pretend some of the words to be proper to ecclesiastics, others common to the whole church. I have already given account of the unreasonableness of the pretension in this chapter[q]. But for the present I shall observe, that there being in this whole institution the greatest simplicity and unity of design that can be, the same form of words, a single sacrament, the same address, no difference in the sanction, no variety or signs of variety in the appendages, in the parallel places, or in any discourse concerning it,—to suppose here a difference, will so intricate this whole affair, that either men may imagine and dream of varieties when they please, and be or not be obliged as they list: or else if there be a difference intended in it by our lawgiver, it will be as good as none at all, he having left no mark of the distinction, no shadow of different commandments, under several representations. If the apostles were only representatives of the ecclesiastical state,

[q] Rule 9. num. 7—9.

when Christ said, "Drink ye all of this," then so they were, when Christ said, "This do in remembrance of me:" the consequent is this, that either all are bound to receive the chalice, or none but the clergy are tied to eat the holy bread; for there is no difference in the manner of the commandment; and the precept hath not the head of a man, and the arm of a tree, and the foot of a mountain, but it is univocal, and simple, and proper, and if there be any difference, it must be discovered by some clear light from without; for there is nothing within of difference, and yet without we have nothing but a bold affirmative.

7. (6.) When the universal church does suppose herself bound by any preceptive words, though they were directed to particular persons, yet they are to be understood to be of universal concernment. Now this relies not only upon the stock of proper probability, viz. that such a multitude is the most competent interpreter of the difficulties in every commandment; but there is in the church a public and a holy Spirit, assisting her to guide, and warranting us to follow, the measures of holiness by which she finds herself obliged. For besides that the questions of general practice are sooner understood, as being like corn sown upon the furrow, whereas questions of speculation are like metals in the heart of the earth, hard to be found out, and harder to be drawn forth; —besides this, no interest but that of heaven and the love of God can incline the catholic church to take upon herself the burden of a commandment. If it were to decline a burden, there might be the more suspicion, though the weight of so great authority were sufficient to outweigh any contrary probability; but when she takes upon her the burden, and esteems herself obliged by a commandment given to the apostles or to the Pharisees, or to any single person among them, it is great necessity that enforces her, or great charity that invites her, or great prudence and caution for security that determine her, and therefore she is certainly to be followed. Upon this account we are determined in the foregoing instance; and because the primitive catholic church did suppose herself bound by the words of institution of the chalice in the blessed sacrament, therefore we can safely conclude the apostles to be representatives of the whole church. "Ad bibendum omnes exhortantur, qui volunt ha-

bere vitam," saith St. Austin[r]; "All are called upon to drink of the chalice, if they mean to have life eternal."—For "indignum dicit esse Domino, qui aliter mysterium celebrat, quam ab eo traditum est," saith St. Ambrose[s]; "As Christ delivered it to the apostles, so it must be observed by all:" and therefore Durandus[t] affirms that "all who were present, did every day communicate of the cup, because all the apostles did so, our Lord saying, 'Drink ye all of this.'"—For the apostles were representatives, not of the clergy consecrating (for they did not consecrate but communicate) but of all that should be present. "Nam quæ Domini sunt, non sunt hujus servi, non alterius, sed omnibus communia," saith St. Chrysostom[u]: "The precept of our Lord belonged not to this servant, nor to another, but to all." Now things that are of this nature, and thus represented, and thus accepted, become laws even by the very acceptation: and as St. Paul said of the gentiles, that "they having not the law, become a law unto themselves;" and our conscience is sometimes, by mere opinion, a strict and a severe lawgiver: when the church accepts any precepts as intended to her, if not directly, yet collaterally and by reflection it passes an obligation; and then it will be scandalous to disagree in manners from the custom and severe sentence of the Christians, and to dissent will be of evil report, and therefore at no hand to be done.

8. (7.) When a precept is addressed to particular persons, and yet hath a more full, useful, and illustrious understanding, if extended to the whole church, there it is to be presumed, it was so intended; and those particular persons are representatives of the church. St. Austin extends this rule beyond precepts, even to privileges and favours; "Quædam dicuntur, quæ ad apostolum Petrum proprie pertinere videantur; nec tamen habent illustrem intellectum, nisi cum referuntur ad ecclesiam, cujus ille agnoscitur in figura gestasse personam, propter primatum quem in discipulis habuit;" "Some things are spoken which seem to relate particularly to the apostle Peter, but yet they are better understood when they are applied to the whole church."—But this must needs be true in commandments; for where nothing hinders it, the command-

[r] In Levit. qu. 57.
[s] In 1 Cor. xi.
[t] Ration le Divin. lib. 3. cap. 1.
[u] In 1 Cor. xi. homil. 24.

ment is supposed to be incumbent upon us; and therefore when the commandment is better understood, and hath a more noble and illustrious sense, that is, promotes the interest of any grace remarkably, there the particular address must mean a general obligation.

9. (8.) When any command is personally addressed, and yet is enforced with the threatening of death eternal, that commandment is of universal obligation. The reason is, because the covenant of life and death is the same with all men; and God is no respecter of persons, and therefore deals alike with all: and upon this account, the words which our blessed Saviour spake to some few of the Jews upon occasion of the Galilean massacre, and the ruin of the tower of Siloam,—had been a sufficient warning and commandment to all men, though, besides those words, there had been in all the Scriptures of the New Testament no commandment of repentance. "Except ye repent, ye shall all likewise perish,"—does mean, that all the world should repent for the avoiding of the final and severest judgments of God.

10. But this rule is to be understood only in commandments that are not relative to the differing states of men, but are of an absolute and indefinite nature. For where the commandment is relative, and yet personally addressed or represented, there that person is the representative, not of all mankind, but of that whole state and order. Thus when St. Paul said, "There is a necessity laid upon me, and woe is unto me, if I do not preach the gospel," he was a representative of the whole order of the curates of souls. But when he said, "I press forward to the mark of the prize of the high calling," —"if, by any means, I may comprehend,"—here he spake, of his own person, what is the duty incumbent upon all Christians; and he was a representative of the whole church.

11. (9.) When any good action is personally recommended upon the proposition of reward, it does not always signify a universal commandment; but according as it was intended personally, so it signifies universally: that is, if it was a counsel to the person in the first address, it is a counsel to all men in the same circumstances; if it was a commandment to one, it was a commandment to all. Thus when Christ said to the young man in the Gospel, "Go and sell what thou hast, and give to the poor, and thou shalt have treasure in

heaven;"—here the precept or the counsel is propounded under a promise: but because there is no threatening so much as implied, whether it be a command or no cannot be known from these words, nor from the appendant condition; because that which is not under command, may be excellently good, and therefore fit to be encouraged and invited forward. But whether it was a precept or a counsel,—that young man, though alone spoken to, was not alone intended, because the thing to which he was invited, is an excellency and spiritual worthiness in all men, for ever, that can and will receive it.

RULE XVIII.

Evangelical Laws, given to one concerning the Duty of another, do, in that very Relation, concern them both; but in differing Degrees.

1. THIS rule I learn from St. Paul[x]; and it is of good use in cases of conscience relating to some evangelical laws: "Obey them that have the rule over you, and be subject; for they watch for your souls, as they which must give an account: that they may do it with joy, and not with grief; for that is unprofitable for you." Thus a prelate or curate of souls is to take care, that his cure be chaste and charitable, just and temperate, religious and orderly. He is bound that they be so, and they are more bound; but each of them for their proportion: and the people are not only bound to God to be so, but they are bound to their bishop and priest that they be so; and not only God will exact it of them, but their prelate must, and they must, give accounts of it to their superior, because he must to his supreme; and if the people will not, they are not only unchaste or intemperate before God and their bishop, but they are disobedient also. It is necessary that infants be baptized: this I shall suppose here because I have in other places[y] sufficiently (as I suppose) proved it. Upon this supposition, if the inquiry be upon whom the necessity is incumbent, it will be hard to say,

[x] Heb. xiii. 17.

[y] Great Exemp. Disc. of Baptism of Infants: Liberty of Prophesying, sect. 18.

'upon infants,' because they are not capable of a law, nor of obedience; and yet it is said to be necessary for them. If upon their parents, then certainly it is not necessary to the infants; because if what is necessary be wanting, they for whom it is necessary, shall suffer: and therefore it will be impossible, that the precept should belong to others, and the punishment or evil in not obeying belong to the children; that is, that the salvation of infants should depend upon the good will or the diligence of any man whatsoever. Therefore if others be bound, it is necessary that they bring them, but it will not be necessary that they be brought: that is, they, who do not bring them, but not they who are not brought, shall suffer punishment. But therefore to answer this case, this rule is useful: It is necessary, that the parents or the church should bring them to baptism, and it is necessary that they be baptized; and therefore both are bound, and the thing must not be omitted. The parents are bound at first, and the children, as soon as they can be bound; so that the precept leans upon two shoulders: if the first omit their share in their time, there is no evil consequent but what is upon themselves: but when the children can choose, and can come,—they must supply their parents' omission, and provide for their own proper necessity. It is in this, as in provisions; at first they must be fed by the hand and care of others, and afterward by their own labour and provisions: but, all the way, they are under a necessity and a natural law of being provided for. When St. Paul wrote to Timothy concerning the dispositions required in those persons, who were to be bishops, it will not be very easy to say, of whom the defect of some of those conditions shall be required. A bishop must be the husband of one wife, that is, he must not marry while his first wife lives, though she be civilly dead, that is, whether divorced, or banished, or otherwise in separation. But what if he be married to two wives at once? Many Christians were so at first: many, I say, who were converted from Judaism or gentilism, and yet were not compelled to put away either. If a bishop be chosen that is a polygamist, who sins? that is, who is obliged by this precept? Is the bishop that ordains him, or the prince or people that chooses him, or the ecclesiastic himself that is so chosen? The answer to this inquiry is by considering the nature of such a

law, which the Italians call 'il mandato volante,' 'a flying or ambulatory commandment,' in which the duty is divided, and several persons have several parts of the precept incumbent on them. He that chooses and he that ordains him, are bound for their share, to take care that he be canonically capable; but he that is so chosen, is not bound to any thing but what is in his power; that is, he is not obliged to put her away whom he hath legally married, and her whom, without sin, he can lawfully retain: but because that which is without sin, is not always without reproach and obloquy,—and that which may be innocent, may sometimes not be laudable,—and of a clergyman more may be required than of another that is not so;—they who call him to the office, are to take care of that, and he which is called, is not charged with that. But then though he be not burdened with that which is innocent and at present out of his power, and such a person may be innocently chosen, when they who choose him, are not innocent; yet when any thing of the will is ingredient on his part, he must take care of that himself. He may be chosen, but he must not 'ambire,' not 'sue' for it, nor thrust himself upon it; for here begins his obligation: there can be no duty, but what is voluntary and can be chosen; but when a man can choose, he can be obliged. I do not here dispute how far, and in what cases, this law does oblige; for of that I am to give an account in the chapter of the ecclesiastical laws: but the present inquiry is, Who are the persons concerned in the obligation? It was also taken care that a bishop should not be a 'novice:' and yet St. Timothy was chosen a bishop at the age of five-and-twenty years; and he was innocent, because it was the act of others, who came off from their obligation upon another account. But if he had desired it, or, by power or faction, thrust himself upon the church with that canonical insufficiency, he had prevaricated the canon apostolical: for to so much of it he was bound; but in what he was a passive, he was not concerned, but others were.

2. But this is to be limited in two particulars. 1. In what the clerk is passive, he is not obliged; that is, in such matters and circumstances as are extrinsical to his office, and matter of ornament and decency. Thus if he have been married to an infamous woman which he cannot now help;

if he be young, which he cannot at all help, but it will help itself in time; if he have an evil and an unpleasant countenance, if he be deformed; for in these things and things of like nature, the choosers and ordainers are concerned; but the clerk may suffer himself to be chosen, the law notwithstanding. But if the canonical impediment be such as hinders him from doing of his future duty, there he may not suffer himself to be chosen; and if he be, he must refuse it. The reason of the difference is plain: because the electors and ordainers are concerned but till the election is past: but the elected is concerned for ever after: therefore although there may be many worthinesses in the person to be chosen to outweigh the external insufficiency and incapacity, and if there be not, the electors are concerned, because it is their office and their act, and they can hinder it, and therefore they only are charged there; yet for ever after the elected is burdened, and if he cannot do his duty, he is a sinner all the way;—he is a wolf to the revenue, and a butcher to the flock.

3. (2.) Though, in matters of decency and ornament, the person to be chosen is not so obliged but that he may suffer himself to be chosen if he be otherwise capable, because those things, which are not in his power, are not in his duty, yet even for these things he also is obliged afterward; and he is bound not to do that afterward, which if it was done before, others were obliged not to choose him. If a person was divorced before and married again, he may accept of a bishoprick; but if he do so afterward, he is guilty of the breach of the commandment; for he must not go back to that door where he might not enter, but then he is wholly obliged; he alone, because then it is his own act, and he alone can hinder it. I say, he must not go back.

4. But if he be thrust back to that door, where if he had stood at first, he ought not to have been let in; he is no more obliged at last than at first: he that 'does not govern his house well, and hath not his children in subjection,' may not, by the Apostle's rule, be chosen; but when he is a bishop, and falls into the calamity of having evil and rebellious children, this is no impediment to his office directly, and does not so much as indirectly pass upon him any irregularity.

5. But then as to the rule itself, this instance is fit to explicate it. For parents are tied to rule their children, mas-

ters to govern their servants; but children are also obliged to be governable, and servants must be obedient. For in relative duties every man must bear his own burden, and observe his own share of the commandment.

RULE XIX.

Custom is no sufficient Interpreter of the Laws of Jesus Christ.

1. TRUTH and the divine commandments need no prescription, but have an intrinsic warrant, and a perpetual abode; but that which is warranted by custom, hath but an accidental obligation, and is of human authority. The laws of Christ are, or ought to be, the parents of custom; but custom cannot introduce a divine law or obligation: our customs ought to be according to Christ's commandment: but from our customs we cannot conclude or infer that this is the will or command of Christ. This rule is Tertullian's[z]. Veritati nemo præscribere potest, non spatium temporum, non patrocinia personarum, non privilegium regionum. Ex his enim fere consuetudo initium ab aliqua ignorantia vel simplicitate sortita, in usum per successionem corroborata; et ita adversus veritatem vindicatur. Sed Dominus noster Christus 'veritatem' se, non 'consuetudinem,' cognominavit. Quodcunque adversus veritatem sapit, hoc erit hæresis, etiam vetus consuetudo:" "No man can prescribe to truth, that is, to any proposition or commandment evangelical. For customs most commonly begin from ignorance or weakness, and in time get strength by use, till it prevail against right. But our Lord Christ does not call himself 'custom,' but 'truth.' Whatsoever is against truth, though it be an old custom, is heresy, notwithstanding its long continuance."

2. The purpose of this rule is not to bar custom from being of use in the exposition of the sense of a law or doctrine. For when it is certain that Christ gave the law, and it is uncertain what sense was intended to the law, custom is very useful in the interpretation; that is, the customs of the first and best ages of the church: and then the longer the cus-

[z] De Virgin. Veland.

tom did ascend, still we have the more confidence, because we have all the wise and good men of so many ages concurring in the interpretation and understanding of the law. Thus the Apostle gave the church a canon, "that we should in all things give thanks:" the custom of the ancient church did in pursuance of this rule say a short prayer, and give thanks at the lighting up of candles. The history of it I have from St. Basil[a]: "Visum est patribus nostris beneficium vespertini luminis non silentio suscipere, sed statim, ut apparuit, gratias agere;" "They said grace for their light as well as for their meat."—This custom was good; for it was but the particular instance of a general duty.

3. But then custom is to be allowed but as one topic, not as all: it is the best argument, when we have no better; but it is the most inartificial of all arguments; and a competent reason to the contrary is much to be preferred before a great and long prescribing custom. Both these propositions are severally affirmed by the fathers of the church. The first by St. Austin in his epistle to Casulanus. "In his rebus, de quibus nihil certi statuit Divina Scriptura, nobis populi Dei et olim justi, statuta majorum pro lege tenenda sunt: et sicut prævaricatores legum divinarum, ita contemptores consuetudinum ecclesiasticarum coercendi sunt." The holy Catholic church is certainly guided by the Spirit of God, and therefore where the question is concerning any thing that is not clear in Scripture, the customs of the Catholic church are not to be despised; for it is to be presumed (where the contrary is not proved), that she piously endeavours, and therefore is graciously assisted in the understanding of the will and commandments of her Lord: and in this sense, custom is the best interpreter, because there is no better, and no clearer light shining from any angel.

4. Custom can thus, in cases of destitution of other topics, declare the meaning of a law; but custom of itself cannot be the interpreter of the will of Christ, or a sufficient warrant of a law, or immediately bind the conscience, as if it were a signification of the divine pleasure; much less ought it to be opposed to any words of Scripture or right reason and proper argument derived from thence. And that is the other thing which, I also said, is taught us by the fathers of

[a] Cap. 29. de Spir. S.

the church. So St. Cyprian[b]: "Frustra quidam, qui ratione vincuntur, consuetudinem nobis opponunt, quasi consuetudo major sit veritate, aut non fuerit in spiritualibus sequendum, si melius fuerit à S. Spiritu revelatum;" "In vain is custom opposed to reason, as if it were greater than truth: not custom, but that which is best, is to be followed by spiritual persons, if any thing better than custom be revealed by the Spirit of God."

5. All good customs are good warranties and encouragements; but whether they be good or no is to be examined and proved by the rule and by the commandment: and therefore the custom itself is but an ill indication of the commandment; from whence itself is marked for good, or else is to be rejected as reprobate and good for nothing. "Consuetudo auctoritati cedat: pravum usum lex et ratio vincat: cum vero nec sacris canonibus nec humanis legibus consuetudo obviare monstratur, inconcussa servanda est," said Isidore[c]; "Let custom yield to authority, to law, and to reason; but when it agrees with the laws of God and of man, let it be kept inviolate."

6. When custom is consonant to some other instrument of probation, when it is apparently pious, and reasonable, and of the analogy of faith, it is an excellent corroborative and defensative of truth, and warrant to the conscience; but when it stands alone, or hath an ill aspect upon other more reasonable and effective ways of persuasion, it is very suspicious and very dangerous, and is commonly a very ill sign of an ill cause, or of corrupted manners. Cedrenus[d] tells that "the patriarch Abraham was wont to say, that there is great difference between truth and custom; that being very hard to be found, this, whether good or bad, being obvious to every eye: and which is worse, by following custom a man gets no comfort if it be in the right, and no great shame if it be in the wrong, because he relies not upon his own reason, but the judgment of old men that lived long ago, who whether they judged wisely or foolishly must appear by some other way: but this he will find, that it will be very hard to leave it, though it be never so foolish and ridiculous."

7. Of what obligation in matters of practice, and of what

[b] Ad Jubaian. [c] In Synonymis, lib. 2.
[d] Hist. Compend. ferè in initio, pag. 25.

persuasion in the inquiries of truth, ecclesiastical customs are to be esteemed, I shall afterward discourse when I treat of ecclesiastical laws: but that which I would persuade for the present is, that the customs and usages of the world are but an ill commentary on the commandments of our blessed Lord.

8. (1.) Because evil is crept into most of the manners of men; and then a custom is most likely to transmit her authority to that which ought to be destroyed. "Inter causas malorum nostrorum, quod vivimus ad exempla, nec ratione componimur, sed consuetudine abducimur. Quod si pauci facerent, nolumus imitari: quum plures facere cœperunt, quasi honestius sit quia frequentius, sequimur, et recti apud nos locum tenet error, ubi publicus factus est:" so Seneca complained: "It is one great cause of our mischiefs, that we are not led by truth, but led away by custom; as if a thing were the honester because it is frequent; and error becomes truth when it is common and public." Excellent therefore was that saying of Pope Nicolas I.: "Parvus numerus non obest, ubi pietas abundat: magnus non prodest, ubi impietas regnat;" "If right and religion be on our side, the smallness of our company is nothing: but a multitude cannot justify impiety."

9. (2.) Custom in moral practices becomes a law to men by pressing upon their modesty, and by outfacing truth and piety; so that unless the custom have warranty from the law, it hath the same effect against a law as for it; and therefore in such cases is at no hand to be trusted, but at every hand to be suspected, lest it make it necessary that men become vicious. The customs of the German and neighbour nations so expound the laws of Christ concerning temperance, that if by their measures it be defined, it looks so like intemperance, as milk to milk; and the common customs of the world expound all the laws of the blessed Jesus so as to be truly obligatory at no time but in the danger, or in the article of death: but certainly it is but an ill gloss, that evacuates all the holy purposes of the commandment; and at the day of judgment, when we shall see numberless numbers of the damned hurried to their sad sufferings, it will be but an ill apology to say, 'I did as all the world almost besides me, by whose customs I understood the laws of the gospel to a

sense of ease and gentleness, and not by the severity of a few morose preachers.' Poggius tells of a Neapolitan shepherd, that against Easter going to confession, he told his confessor, with a tender conscience and great sorrow of heart, that he had broken the holy fast of Lent, by chance indeed, but yet with some little pleasure; for when he was pressing of a new cheese, some of the whey started from the vessel and leaped into his mouth, and so went into his stomach. The priest smiling a little at the fantastic conscience of the man, asked him if he was guilty of nothing else. The shepherd saying, he knew of nothing else that did or ought to trouble him; his confessor, knowing the customs of those people upon the mountains of Naples, asked him if he had never robbed or killed any strangers passengers. 'O yes,' replied the shepherd, 'I have often been at that employment; but that we do every day, and always did so, and I hope that is no sin:'—but the cheese, the forbidden cheese, stuck in his stomach, because every one did abominate such meat upon fasting-days: only the custom of killing and stealing had hardened his heart and forehead till it was not perceived.

> —— dedit hanc contagio labem,
> Et dabit in plures; sicut grex totus in agris
> Unius scabie cadit et porrigine porci,
> Uvaque conspecta livorem ducit ab uva[f].

10. Evil manners begin from one evil man, or from one weak or vicious principle, and pass on to custom, and then to be virtuous is singularity, and is full of envy; and concerning the customs of the world it is ten to one if there be not some foulness in them. The advice therefore of St. Cyprian[g] is a good compendium of this inquiry: "Consuetudo, quæ apud quosdam irrepserat, impedire non debet, quo minus veritas prævaleat et vincat; nam consuetudo sine veritate vetustas erroris est: propter quod, relicto errore, sequamur veritatem; scientes, quod veritas vincit, veritas valet et invalescit in æternum, et vivit et obtinet in secula seculorum:" "Custom ought not to prevail against any truth; but truth, which is eternal, will live and prevail for ever and ever. Custom without truth is but a prescription of falsehood and irregularity."

[f] Juven. Sat. 2. 78. Reperti. [g] Ad Pompei.

Question.

11. Upon occasion of this argument it is seasonable, and of itself a very useful inquiry, Whether the customs of Jews and gentiles, or indefinitely of many nations, be a just presumption that the thing so practised is agreeable to the law of nature, or is any ways to be supposed to be consonant to the will of God.

Answer.

12. To this, some of eminence in the church of Rome answer affirmatively; and are so far from blushing, that many of their rites are derived from the customs of heathens, that they own it as a thing reasonable, and prudent, and pious, according to the doctrine and practice of Gregory surnamed Thaumaturgus,—who, as St. Gregory [h] Nyssen reports, that he might allure the common people to the love of Christianity, gave way that those dances and solemn sports, which they celebrate to the honour of their idols, should be still retained, but diverted to the honour of the saints departed; and Baronius [i] supposes it to be no other than as the Israelites taking of the silver and brass from the Egyptians, and employing it in the service of the tabernacle. And in particular, the custom of burning candles to the honour of the Virgin Mary he imputes to the same principle, and owns it to be of heathenish extraction. The same also is in divers other instances avowed by Polydore Virgil [k]; by Fauchet [l] in his books of the Antiquities of France; by Du Choul [m], Blondus [n], and Bellarmine [o], who bring this as an argument for the doctrine of purgatory, because the Jews, the Turks, and the heathens, did believe something of it; it being very likely, that what almost all nations consent in, derives from the natural light of reason which is common to all men: and upon this very thing Cardinal Perron [p] boasts in the behalf of the service in an unknown tongue; that not only the Greeks, and

[h] Orat. de Vita S. Grego. Thaum.
[i] Annal. A. D. 44. sect. 88. et A. D. 58. sect. 76, 77. et in Martyrol. Febr.
[k] De Inventor. Rerum, lib. 5. cap. 2.
[l] Lib. 2. cap. 9. et lib. 5. de Origin. Dignit. Gall. cap. 17.
[m] Lib. de Religione Romanorum, in fine.
[n] In lib. 1. et 2. de Roma Triumphante.
[o] Lib. 1. de Purgatorio, cap. 7. sect. Tertia Ratio.
[p] Adv. Regem Jacobum in Prima Instantia, cap. 1.

many other Christian churches, but even all religions, the Persians and the Turks, use it.

This pretence therefore is fit to be considered.

13. (1.) Therefore I answer, that it is true that the primitive church did sometimes retain some ceremonies, which the heathens used; but they were such ceremonies, which had no relation to doctrine, but might be made apt for order and decent ministries external. Such were the garments of the priests, lights, girdles, fasts, vigils, processions, postures, festivals, and the like: and they did it for good reason and with good effect; that the people, who were most of all amused with exterior usages, finding many of their own customs adopted into Christianity, might with less prejudice attend to the doctrines of that persuasion, which so readily complied in their common ceremonies. This did well enough at first, and was a prudent imitation of the practice of our great Master,—who, that the Jews might the easier pass under his discipline and institution, made the passages as short, and the difference as little, as could be. For since he would retain but two external ministries in his whole institution, he took those rites, to which the Jews had been accustomed; only he made their baptisms sacramental, and effective of great purposes, and some of the paschal rites he consecrated into the highest mystery; retaining apparent footsteps, or rather bodies, of their government and discipline ecclesiastical. And this proceeding we find owned and justified by St. Austin against Faustus the Manichee, and St. Jerome against Vigilantius, and Ephraim Syrus of old; and of later times by Alcuinus[q], Amalarius[r], and by Gratian[s]: and who please to see it more largely pleaded for, may read Mutius Pansa's 'Osculum Christianæ et Ethnicæ Philosophiæ,' and Nicolaus Mont-Georgius 'de Mosaico Jure Enucleando:' and that it may be reasonable from the services of such men, from whom we justly abhor, to borrow some usages, is excellently discoursed of by Mr. Hooker, in his fourth book of 'Ecclesiastical Polity.'

14. But however this might fit the necessities and circumstances of the infant ages of the church, yet they ought not to be done easily, but ever with very great caution. For though it served a present turn, yet it made Christian religion

[q] De Divin. Offic. [r] De Offic. Eccles. [s] De Consecrat.

less simple and less pure; but by becoming a miscellany it became worse and worse. It was or might be at the first a "complying with the infirmities of the weak," a pursuance of St. Paul's advice so to do; but when these weak persons are sufficiently instructed in the religion, and that to dissent is not infirmity, but peevishness and pride, or wilfulness,—all compliance and condescension are no longer charity, but give confidence to their error. For when the reasonable discourses of the religion will not satisfy the supposed weak brother, he that complies with him, confesses his the better way; and when learned men follow the ignorant to superstition, they will no longer call it compliance and condescension, but duty and necessity and approbation. A good man will go a little out of his road to reduce the wandering traveller; but if he will not return, it will be an unreasonable compliance to go along with him to the end of his wandering. And where there is any such danger (as in most cases it is), we have the example of God himself, and his commandment[t] expressly given to the children of Israel, that they should abstain from all communion with the gentiles, their neighbours, even in things indifferent; and that they should destroy the very monuments and rituals, and the very materials, of their religion, lest, by such a little compliance, they be too far tempted. And thus also they did sometime in the primitive church; for Tertullian[u], because the gentiles used in the services of their idols to sit down immediately after they had prayed, would not have the Christians do so, though the ceremony of itself was wholly indifferent. And when many Christian churches had taken some gentile ceremonies into their Christmas solemnity, being occasioned by the circumcision of Christ falling on the calends of January, or the new-year's day, they were not only forbidden in the council of Auxerre[x], but the church did particularly appoint private litanies, processions, and austerities, to be used for three days with the twelve of Christmas, "ad calcandam gentilium consuetudinem," "to destroy and countermine the superstitious customs of the heathen," which, by the compliance and fondness of some Christians, had dishonoured the excellency and innocency of the Christmas festivity; as we find noted by the fathers of

[t] Deut. vii. 5. xii. 4. [u] De Orat. cap. 12.
[x] Concil. Antisiodor. cap. 1.

the synod[y] of Turon. Sometimes there had been reason to retain these things: but when, in the days of persecution, some weak-hearted Christians did shelter themselves under the cover of such symbolical ceremonies, and escaped the confession of Christianity by doing some things of like custom,—or when the folly and levity of Christianity, by these instruments, passed on to vanity or superstition,—then the church with care did forbid the retaining of heathenish customs, which had been innocent but for such accidents. In these things the church may lose her liberty, so that "all things be done to edification."

15. (2.) But if the customs and rites be such, as are founded upon any point of doctrine, whatsoever it be that derives from pagan customs, must also be imputed to their doctrines; and then to follow their customs, will be also to mingle the religions, to blend light and darkness, and to join Christ with Belial. It had been a material objection, which Faustus the Manichee made against the Catholics, that they did remove the worship from idols, and give it to saints and martyrs. St. Austin, who was to answer the objection, could not justify, but did deny the fact, as to that instance and some few others: for the custom of the nations, in such cases, was no argument, but an objection. From these premises it will appear to be but a weak pretence to say, that 'if many nations and religions agree in such a ceremony, or such an opinion, it will be supposed to come from the light of nature.'—For there are not many propositions, in all which nature can teach; and we should know but a very few things, if we did not go to school to God, to tutors, to experience, and to necessity. This pretence would not only establish purgatory, but the worship of images, and the multitude of gods, and idololatrical services, and very many superstitions, and trifling observances, and confidence, in dreams, and the sacrifice of beasts, and many things more than can well become or combine with Christianity. When not only some nations, but all, agree in a proposition, it is a good corroborative, a good second to our persuasions, but not a principal; it gives advantage, but not establishment; ornament, but not foundation, to a truth: which thing if it had been better observed by the Christians, who, from the schools of Plato,

[y] Concil. Turon. 2. can. 13.

Chrysippus, Aristotle, and Epicurus, came into the schools of Christ, or from the temples of Jupiter and Apollo into the services of the church, Christianity had been more pure and unmingled than at this day we find it. The ceremony of sprinkling holy water was a heathenish rite, used in the sanctifications and lustrations of the Capitol, as Alexander ab Alexandro relates: but because this is not a ceremony of order or circumstance, but pretends to some real effect, and derives not from Christ or his apostles, but from the gentiles, and relies upon the doctrine of the effect of such ceremonies, it is not justifiable. Burning candles by dead bodies was innocent and useful to them, that attended in the vigils before interment; but when they took this from the custom of the heathens, who thought those lights useful to the departed souls, they gave a demonstration by the event of things that they did not do well: for the Christians also derived a superstitious opinion along with the ceremony, and began to think that those lights did entertain the souls in those cemeteries: and this produced the decree of the council of Eliberis[s], that wax-candles should not be burnt in the daytime, "lest the spirits of the dead be disturbed." Now when any false principle is in the entry of the ceremony, or attends upon it, or any superstition be in the progress or in the end of it, any scandal, or any danger,—such customs are not at all to be followed, such rituals are not to be imitated or transcribed: that is, no custom is a warranty for any evil.

RULE XX.

The Measure of Perfection and Obedience expected of Christians, is greater than that of the Jews, even in moral Duties common to them and us.

1. It matters not, whether Christ's law have in it more precepts than were in the law of Moses: our work is set before us, and we are not concerned how much they had to do; and in most of the instances which are, or are said to be, new commandments, it may also be said of them as it was by the Apostle concerning charity, "This is a new commandment," and "This is an old commandment;" there being, at least in

[s] Can. 34.

most instances, an obligation upon them to do what was of itself good and perfective of human nature, and an imitation of the eternal law of God, a conformity to the divine perfections. This is true as to the material part: but then because that which was an old commandment, is also made a new commandment, and established upon better promises, and endeared by new instances of an infinite love; and we ourselves are enabled by more excellent graces, and the promise of the Holy Spirit is made to all that ask him; it is infinitely reasonable to think, that because this new commandment superadds nothing new in the matter, it must introduce something new at least in the manner, or measure of obedience.

2. They and we are both of us to pray; but we are commanded to pray 'fervently,' frequently, 'continually.' They were to be charitable, and so are we: but they were tied to be so to their friends and to their neighbours, but we to our enemies; and though in some instances, they were tied to be so, yet we are bound in more; more men are our neighbours, and more are our brethren, and more is our duty. They were to do them no hurt; but we must do them good. They were to forgive upon submission and repentance; but we must invite them to repentance, and we must offer pardon. They were to give bread to their needy brother; but we are in some cases to give our lives. They were to love God "with all their soul and with all their strength:" and though we cannot do more than this, yet we can do more than they did; for our strengths are more, our understandings are better instructed, our shield is stronger, and our breastplate broader, and our armour of righteousness is of more proof than theirs was. Dares and Entellus[s] did both contend with all their strength; but because Entellus had much more than the other, he was the better champion.

3. (1.) This rule does principally concern Christian churches and communities of men: that their laws be more holy; that the condition of the subjects be more tolerable; that wars be not so easily commenced; that they be with more gentleness acted; that the laws of Christ be enforced; that malefactors be not permitted; that vice be more discouraged; that nothing dishonourable to religion be permitted; that the kingdom of Christ in all capacities be advanced; that

[s] Æn. 5.

his ministers be honoured and maintained according to the excellency of the present ministry and the relation to Christ's priesthood; that the public and honorary monuments of it be preserved, and virtue properly encouraged; and great public care taken for the advantageous ministry of souls, which are the proper purchase of our Redeemer,—that in all things Christ may be honoured by us more than Moses was by them, and that God, through Jesus Christ, be more glorified than he was in the Levitical government.

4. (2.) This also concerns single persons; that they certainly abstain from all those imperfections of duty which were either permitted in the law, or introduced by the commentaries of their doctors, or inferred by the general declination of their first piety, and the corruption of manners. The Jews would not take usury of a needy Jew, but of a needy stranger they would: but we must consider them with a more equal eye; we must be charitable to all: for to a Christian no man, that needs and asks him, is a stranger. The Jews had great liberty of divorces indulged to them; a Christian hath not the same: but in that in which he is permitted, he is not to be too forward.

5. (3.) In matters of duty, a Christian is to expound his obligation to the advantage of piety, to security of obedience, to the ease of his brother, and the pressing upon himself: that whatever be the event of his temporal affairs, he secure his spiritual interest, and secure justice though to the loss of his money, and in all doubts determine for duty rather than for interest: the Jews went not beyond the letter of the commandment.

6. (4.) In the interior acts of virtue, a Christian is to be more zealous, forward, operative, and busy, frequent and fervent: he must converse with God by a more renewed intercourse, give himself no limits, always striving to go forward, designing to himself no measure but infinite in the imitation of the perfections of God, and the excellences of his most holy Son.

7. (5.) In the exterior acts of virtue, Christians must, according to their proportion, be ashamed to be outdone by Jews, not only in what they did in obedience, but also in what they, in good and prudent zeal for the law of Moses, did expend or act: I say, what they did act in good and prudent zeal for their law. That they adorned their temple, freely

gave contributions for its support and ornament, loved all of their persuasion, endeavoured to get proselytes; and therefore are in these things not only to be imitated, but to be outdone, because all this was a prudent and zealous prosecution of their duty. But when, in zeal, they did not only love their own sect, but hate, and persecute, and were uncivil to, all of another persuasion,—this was zeal indeed; but it was folly too and a work of the flesh, and, therefore, not to be imitated by Christians, who are the servants of the Spirit.

8. (6.) Where Christians are left to their liberty in those instances, in which the Jews were bound, Christians ought freely to do as much as they did by constraint and by necessity: for then properly we do more than they, when we voluntarily choose what was imposed on them: it is not more work, but it is more love. Thus the Jews were bound to pay tithes to the Levites: we are commanded to maintain them honourably: but because tithes is not in the commandment to us, we ought to supply the want of a command by the abundance of love; and, in this, there is no abatement to be made but by what did concern the nation in some special relation, necessity, or propriety. God was pleased to make the more ample provision for the tribe of Levi, because they had no inheritance amongst their brethren; they had no portion in the division of the land. Now because the Christian clergy had a capacity of lands and other provisions, there is not all the same reason in the quantity of their appartiment as was in the assignation of the Levitical portion. Now when any such thing can intervene and enter into consideration, it must be allowed for in the proportions of increase, which are demanded of the Christian. The Jews gave great contribution to the temple; but it was but one; and therefore it is not to be expected, that every Christian church in such a multitude should be adorned and rich like the temple of Jerusalem.

9. (7.) Where the Jews and Christians are equally left to their liberty, it is infinitely reasonable and agreeable to the excellency of the religion, that Christians should exceed the Jews. Thus we find, that, at the erecting of the tabernacle, the Jews brought silver and gold and other materials, till they had too much, and the people were commanded to cease and bring no more. Now when an occasion as great in itself,

and more proportionable to the religion, calls upon us for an offering and voluntary contribution, if the instance be in a matter as proportionable to the gospel as that was to the law of Moses, the excellency of the religion and the dignity of the work and the degree of our grace and love, require of us to be more ready and more liberal in equal proportions.

10. (8.) In those graces, which are proper to the gospel, that is, such which are the peculiar of Christians, literally and plainly exacted of us, and but obscurely insinuated, or collaterally and by the consequence of something else required of them, it cannot be but that the obedience which we owe, should be more ready, the actions more frequent, the degrees more intense; because every advantage in the commandment hath no other end but to be an advance of our duty; and what was obscurely commanded, can be but dully paid; while the Christian's duty must be brisk and potent and voluntary and early and forward and intense, in proportion to greater mercies received, to a better law, to a more determined conscience, to a clearer revelation, to more terrible threatenings, and to the better promises of the gospel: all which are so many conjugations of aid, and instances of a mighty grace. And therefore Christians are to be more humble, more patient, more charitable, mor eb untiful, greater despisers of the world, greater lords over all their passions, than the Jews were obliged to be by the consequences of their law.

11. (9.) When this comes to be reduced to practice in any particular inquiry of conscience, every Christian is not to measure his actions by proportion to the best, and the rare persons under the Mosaic law, in their best and heroic actions. For who can do more than David did, after he had procured the waters of Bethlehem to cool his intolerable thirst, but to deny his appetite, and refuse to drink the price of blood? who can do more than he did, and would have done, towards the building of the temple? who can give better testimony of duty to his prince than he did to Saul? who can, with more valour and confidence, fight the battles of the Lord? who can, with more care, provide for the service of God, and the beauty and orderly ministries of the tabernacle? who can, with more devotion, compose and sing hymns to the honour of God; in these and such as these David was exem-

plary; and so was Moses for meekness, and Job for patience, and Manasses for repentance, and Abraham for faith, and Jacob for simplicity and ingenuity, and Enoch for devotion: these, in their several periods, before and under the law, were the great lights of their ages, and set in eminent places to invite forward the remiss piety of others, alluring them by the beauty of their flames to walk in their light and by their example. And it is well, if Christians would do as well as these rare personages in their several instances. But as some women are wiser than some men, and yet men are the more understanding sex, and have the prerogative of reason and of government; so though some persons of the old religions were better than many of the new (of the religion of Jesus Christ), yet the advantage and the increase must be in the Christian church, which must produce some persons as exemplary in many graces as any of these hath been in any one.

12. (10.) But then as to single persons; 1. Every man must observe those increases of duty, which our blessed Saviour, either by way of new sanction, or new interpretation, superadded to the old, in the sermon upon the mount.

2. Every man must do in proportion to all the aids of the Spirit, which the gospel ministers, all that he can do: which proportion if he observes, it will, of itself, amount to more than the usual rate of Moses's law, because he hath more aids.

3. He must be infinitely removed from those sins, to which they were propense, and which made God to remove them out of his sight; such as were, idolatry, the admitting of strange gods, infidelity, obstinacy, hypocrisy, and sensual low appetites: because these were the crimes of an ignorant uninstructed people in respect of what the Christian is; and for a Christian to be an idolater, or easily divorced, or incredulous, as they were, is therefore the more intolerable, because it is almost removed from his possibilities; he can scarce be tempted to such things, who knows any thing of the doctrine of the gospel.

4. There is no other positive measures of his duty, but that which can have no measure itself, and that is love; and a Christian must therefore exceed the righteousness of the subjects of Moses's law, because they must do all their works in faith and love; in faith, to make them accepted, though they be imperfect; in love, to make them as perfect as they can

be. Now he that loves, will think every thing too little: and he that thinks so, will endeavour to do more, and to do it better: and Christians,—that have greater experience of God, and understand the nature of charity, and do all of them, explicitly and articulately, long after the glories of an eternal love, and know that all increase of grace is a proceeding towards glory,—need no other argument to enforce the duty, and no other measure to describe the duty of this rule, but to reflect upon the state of his religion, the commandments, the endearments, the aids, the example, the means: all which are well summed up by St. John[b]; "Beloved, we are the sons of God, and it does not yet appear what we shall be; but we know, that when he shall appear, we shall be like him; for we shall see him as he is: and every man that hath this hope, purifieth himself as God is pure:"—that is, we are, for the present, children of God by adoption, sealed with his Spirit, renewed by regeneration, justified by his grace, and invited forward by most glorious promises, greater than we understand. Now he that considers this state of things, and hopes for that state of blessings, will proceed in duty and love towards the perfections of God, never giving over till he partake of the purities of God and his utmost glories.

I add no more but this, that, in the measures of the practice of this rule, there is no difficulty, but what is made by the careless lives of Christians and their lazy and unholy principles. At the rate as Christians usually do live, it is hard to know how, and in what instances, and in what degrees, our obedience ought to be more humble and more diligent than that of Moses's disciples. But they that love, will do the thing, and so understand the rule. "Obedite, et intelligetis;" "Obey, and ye shall understand."

Concerning the interpretation of the laws of the most holy Jesus, I know of no other material consideration here to be inserted. Only there are several pretences of exterior and accidental means of understanding the laws of Christ, which because they are derived from the authority or from the discourses of men, they are more properly to be considered in the rules concerning human laws,—which is the subject of the next book, where the reader may expect them.

[b] 1 John, iii. 2, 3.

OF

HUMAN LAWS,

THEIR

OBLIGATION AND RELAXATION:

AND OF THE

COLLATERAL, INDIRECT, AND ACCIDENTAL,

BANDS OF CONSCIENCE.

BOOK III.

CHAPTER I.

OF HUMAN LAWS IN GENERAL; AND WHAT OBLIGATION THEY PASS UPON THE CONSCIENCE.

RULE I.

The Conscience is properly and directly, actively and passively, under Pains of Sin and Punishment, obliged to obey the Laws of Men.

1. THAT the laws of God and man are the great measures of right and wrong, of good and evil, of that which is to be followed, and what is to be avoided in manners of men, and the intercourses of societies,—is infinitely certain and universally confessed. Since therefore human laws are one moiety of the rule and measure of conscience, and that we are bound to obey our lawful superiors in what they command,—it is naturally consequent to this, that we acknowledge the conscience bound,—and that, in human laws as well as in divine, though according to their several proportions, the conscience ought to be instructed. And indeed there is more need of preachers in the matter of divine laws, and more need of

wise and prudent guides in the matter of human laws. For the laws of God are wiser and plainer, few and lasting, general and natural, perceived by necessity, and understood by the easiest notices of things; and therefore men have more need to be called upon to obey, than taught how; and therefore here the preacher's office is most necessary and most required. But human laws are sometimes intricate by weakness, sometimes by design, sometimes by an unavoidable necessity: they are contingent, and removed far from the experiences of most men; they are many and particular, difficult and transient, various in their provisions, and alterable by many parts and many ways: and yet because the conscience is all the way obliged, she hath greater need of being conducted than in the other, where every wise man can better be a guide in the little intrigues, and every child can walk in the plain way.

2. But our first inquiry is, Whether the conscience be obliged or no. For if conscience be not, then nothing is concerned but prudence, and care that a man be safe from the rods and axes: but then the world would quickly find, that fear would be but a weak defence to her laws; which force, or wit, or custom, or riches, would so much enervate, or so often evacuate. And therefore the greatest case of conscience in this whole matter is, 'Whether it be a matter of conscience as well as of prudence and security to obey the laws of man.'—And this question is so dubious and unresolved, that Cajetan and Henricus de Gandavo did suppose it fit to be determined by the pope 'in cathedra,' as thinking it otherwise to be indeterminable. The reasons of doubting are these;

3. (1.) Because God only is Lord of consciences, he only can discern the secret that is there, and he only can punish there; and therefore to suppose any band upon conscience from human laws, would be to divest God of his royalty: none but he who is Καρδιογνώστης, 'the Searcher of the heart' and mind of man, can give laws to it; for none else can take cognizance, or give a compulsory.

4. (2.) The conscience is seated in the understanding, as I have already[a] proved: but that is an imperious faculty that acknowledges no superior but God; because he only being

[a] Lib. 1. rule 1.

infallible, he only can instruct and inform it rightly, none else can have power over it. For the understanding hath a proper way of being ruled. The will is ruled by empire, but the understanding by doctrine; that is governed by command, this by argument; the will by power, the understanding by truth: now because God only is truth, and every man a liar, God only can rule the understanding, which is the court of conscience.

5. (3.) To submit the conscience to any law or power of man, is to betray our Christian liberty: for Christ having set us free from all the bondage even of that law, which God himself made and gave to Moses,—he having alleviated the burden of rites and ceremonies, and left the Jews at liberty to be governed as they pleased themselves, would not take off the laws of God to impose upon us the laws of men; and there is no such thing as Christian liberty, but a freedom from the law of Moses, and the law of carnal ordinances, and the laws of men: for that which the preachers speak of, a liberty from sin, and from hell, and the grave,—1. This is rather a deliverance than a liberty, a rescue from an evil of another nature, not a state of freedom and ease. 2. As many men have ordered their theology, we are so far from having a liberty from sin, that they have left us nothing else but a liberty to sin; and indeed we have no liberty or freedom from sin as long as we are alive, but we are always in war and contention, which is worse than death; and so many men are always captive under sin, and all men do so often obey it (and "his servants we are, to whom we do obey"), that we have little reason to boast of Christian liberty in that sense. 3. St. Paul using the word 'liberty,' and speaking of the advantages of Christians in this, instances it only in being freed from those ordinances of Moses, and the impositions, which some philosophers or some sects of men would bring upon the conscience. 4. Liberty from sin, or Christian liberty, in this sense, is nothing but a tropical expression, a metaphor and similitude; and therefore is not that real privilege, by which we were materially advantaged upon the publication of the gospel of Christ. The result of which considerations is, that all Christians are free men, servants of Christ, and of none else, it being an express commandment, and that strengthened with a reason, "Ye are bought

with a price, be ye not the servants of men[b];" which at least must be understood of conscience, and the mind of men.

6. (4.) For granting it to be lawful for men to make laws, yet that these laws cannot bind the conscience, it appears plainly in this; that whatever laws of the church are made concerning any rite or ceremony, let it be never so necessary or fitting that they be obeyed, yet the things do not become intrinsically necessary, and therefore are not to be thought so,—lest, expressly against the commandment of our blessed Saviour, we "teach for doctrines the commandments of men." To keep holidays may be very good, so that we observe them to the Lord; but he that thinks it necessary and a direct duty, wrongs his own conscience: which demonstrates that conscience is free, when every thing else is bound. You may fast when you are commanded by your superior, but you must not think that fasting is a part of the divine service; that is, though man commands fasting, yet God does not: and then if man of himself does bind the conscience, he hath a power equal to God, and can make divine commandment: but if a man cannot do so, then the conscience is free, and not tied by human laws.

7. (5.) If human laws do bind the conscience, then it is put into the power of man to save or damn his brother; not directly, but upon the consequence of his obedience or disobedience, which is all that is done by the laws of God; and men shall have power to make more ways to the devil, to make the strait way to heaven yet straiter, and the way to hell, which is already broad enough, yet wider and more receptive of miserable and perishing souls.

8. (6.) Christ is the author and finisher of our faith, and so of every grace: that is, he only can give it, and he only can take it away. Since therefore that which makes a sin, destroys the grace, no human authority can make an action to be a sin; because no human power can dispose of grace or take it away.

9. (7.) In the instance of civil power and civil laws the case is more certain, for this reason; because the civil power cannot remit sins, therefore neither can they bind to sin: and from hence it will follow, that, supposing ecclesiastical

[b] 1 Cor. vii. 23.

laws do bind the conscience, yet the civil cannot. But then as for the ecclesiastical power and laws, they also are as invalid upon another account,—because the church, having no external compulsory, can only bind in those things where God hath already bound; and therefore can make no laws of our own, but what are already made by a higher power, and consequently cannot bind to sin, but there where the conscience is already bound by God. And if the church should inflict her censures for any thing, that were not, of itself, a sin against God,—as for not paying the fees of the spiritual court, for a poor man's working for his living upon a holy day, the world would cry out of her; which shows, that where God hath not bound the conscience, neither the ecclesiastical nor the civil power can.

(8.) If human laws do directly bind the conscience, then it is as great a sin to transgress a law of man, as to break a law of God; with our bare foot to touch the ground within the octaves of Easter, as to call our brother fool; to eat flesh on Friday, as great as to commit fornication: which consequent because it is intolerable, so also is the opinion that infers it. The conclusion is, In Christ Jesus there is neither high nor low; that is, Christian religion hath no hand in this heraldry of 'secundum, sub, et supra;' but whatsoever difference of person, of order, and of government, is amongst us, is by agreement; it is, as St. Peter calls it, ἀνθρωπίνη κτίσις, "the ordinance of man;" and for man's sake it is to be obeyed: but the conscience is still at liberty where only the commandment of man does intervene.

10. This opinion is taught by Fernando Vasquez a Spaniard, and he affirms that all the gentlemen and common people of Spain, the scholars only excepted, are of this opinion: it was also taught by some of the scholars of Calvin, and some Lutherans, by all the Anabaptists of Germany of late, —and that upon the strength of the first, the third, and fourth arguments; and formerly by Jacobus Almain, and John Gerson, by Felinus, Cajetan, and Navarre, (but they mean only the civil laws of princes), upon the confidence of the sixth and something of the seventh argument; all which I have thrust forward as far as the nature of the question would bear, and added some more: which I have done, not that these arguments ought to prevail, but that by the examina-

tion of them this great question may have right done it, by being rightly stated, and fully cleared.

11. First therefore to the main inquiry; it is certain as an article of faith, as necessary as any other rule of manners, that every subject is bound to obey the just laws of his lawful superior, not only under fear of punishment from man, but under pain of the divine displeasure. 1. Because the power by which men make laws, is the power of God: "By me kings reign, and the lawgivers decree justice," says the Wisdom of God[c]; that is, the Son of God, the Wisdom of the Father, to whom he hath given all power in heaven and earth; he it is, by whom, that is, by whose power and wisdom, kings reign. For this is the wisdom, ἣν Θεὸς ἔκτησε ἀπ' ἀρχῆς, "which God *possessed* from the beginning." The LXX. reads it ἔκτισε, "creavit," "which God *created* from the beginning;" and this word the Arians make use of to their evil purposes, but very weakly and against the faith of the original, where it is קנן 'kanan, possedit.' This eternal Son of God, and the Wisdom of the Father, the King of kings and the Lord of lords, is the original of all human power, and this is nothing but a derivative from him. "For power is given you of the Lord, and sovereignty from the Highest; and ye are ministers of his kingdom[d]." And St. Paul[e] expressly and dogmatically affirms, "There is no power but from God: the powers that be, are ordained of God: whatsoever therefore resisteth the power, resisteth the ordinance of God." So that the legislative or supreme power is not the servant of the people, but the minister, the trustee and representative, of God. 2. The power of the sword is only from God; for since no man is lord of his own life, no man hath power to kill himself, neither hath he power to warrant any man else to do it; for what he may not do himself, he cannot commission and empower any one else to do. "Vindicta mea," saith God; "Vengeance is mine, I will repay:" and it is God's sword with which the magistrate strikes; and therefore kings and potentates are Θεοῦ λειτουργοὶ, and Θεοῦ διάκονοι, ἔκδικοι εἰς ὀργὴν, "God's deputies and ministering officials, in his name to be the avengers of his wrath:" and as Christ[f] said to Pilate, "Thou couldest have

[c] Prov. viii. 15.
[d] Wisd. vi. 3, 4.
[e] Rom. xiii. 1, 2.
[f] John, xix. 11.

no power, unless it were given thee from above," may be said to all human powers,—It is given them from above, not from beneath; from God, not from the people. The consequent of which is this, If it be God that strikes and pays vengeance by the hand of the magistrate, then it is God who is offended, when the law of the magistrate is violated; for whoever strikes, is the party injured; and the magistrate being God's minister, as he is the less principal in the justice done, so also in the injustice suffered. "Dixit Deus quia dii estis," "It is God who hath said to the magistrates, that they are gods;" that is, in the place of God: by his authority they strike, and he is the injured person: and therefore he who is so smitten by the sword of God, is a sinner against God, for he punishes none else. "Patet culpa, ubi non latet pœna." If God punishes, it is certain man hath sinned, said St. Austin[g], and St. Prosper[h]. The one is the indication of the other.

But the thing is expressly affirmed by the Scripture; for having dogmatically and fully signified that all human just power is τοῦ Θεοῦ δύναμις, διὰ τοῦ Θεοῦ, ἀπὸ τοῦ Θεοῦ, and ὑπὸ τοῦ Θεοῦ, they being the several expressions of Solomon, according to the LXX. and of St. Paul in his own words, it is not content to leave us to find out the consequence of these, but literally affirms the main articles. So St. Peter[i]: "Be ye subject to every ordinance of man, διὰ τὸν Κύριον, for the Lord's sake;" which St. Paul[k] speaks yet more explicitly; "Wherefore it is necessary that ye be subject, not only for wrath, but also for conscience' sake; 'sicut Christo,' 'as to Christ,' so be obedient to your masters, or temporal lords;" so the same Apostle: that is, by the same necessity, for the same reason, to avoid the same punishment, to have the same reward, and by the force of the same religion, and that you may not prevaricate the laws of God, or do violence to your conscience. Nothing can add light to these so clear words, they are bright as the sun, certain as an article of faith, clear, easy, and intelligible, according to the nature of universal divine commandments. St. Chrysostom[l] and Theodoret[l] urging these precepts, say, that we are not to obey out of courtesy, but of duty; not out of liberality, but necessity;

[g] Lib. 2. Retract. cap. 9. et ep. 105. ad Sixtum.
[h] Cap. 20. lib. contr. Collatorem.
[i] 1 Pet. ii. 13.
[k] Rom. xiii. 5.
[l] In Rom. xiii.

that is, according to St. Ambrose[l] and St. Austin[m], the fearful pains of hell and eternal damnation attend them that disobey.

And this whole matter is infinitely demonstrated in this one consideration: the laws of man do so certainly bind the conscience, that they have a power of limiting and declaring, and making the particulars to become the laws of God. For though the divine law forbids murder, yet the law of man declares concerning the particular, that it is, or it is not, murder,—and by such declaration, by such leave or prohibition respectively, makes it so. In Spain, if a wronged husband or father kill the deprehended adulteress, it is no murder; in England, it is. For, in Spain, the husband or father is permitted to be executioner, where notoriety is declared to be sufficient conviction: here, they are not trusted with it; and the judge and the executioner are persons vastly removed. If a law[n] forbids me to take my goods from a thief, it is theft to do it; but it is no theft if the law permits[o]. It is incest for the uncle to marry with his niece: it is so, where the laws have made it so, but it is not so of itself, for it was not so always. Since therefore human laws can constitute an action in the habitude of a divine law, it is beyond all question, it does oblige the conscience.

13. (2.) This obligation is passed upon the conscience, and there is this necessity of obeying: not only in case human laws be first given by God 'in thesi,' or 'in hypothesi,' that is, in words or in sense, in direct affirmation or just consequence, in substance or in analogy; but though the matter of the law be in its own nature wholly indifferent before the sanction and constitution. The first conclusion I intended against the Anabaptists, and this second against Gerson, Almain, and the dissenting sectaries: and of the truth of it we have an instance in the person of St. Paul, who, by his apostolical authority, gave an injunction[p], which hath ever since been an ecclesiastical canon; and yet he alone and not the Lord gave the word, "that a believing wife or husband should not depart from their unbelieving" correlative, if he or she respectively desired to stay. It was a matter in which Christ

[l] In Rom. xiii. [m] Ep. 54. ad Maced. Vide etiam S. Hieron. in cap. 3. ad Titum.
[n] Cap. Placuit 16. q. 6. et in lib. extat. ff. quod Metas Causa.
[o] Gl. in cap. Jus Gentium, dist. 2. verbo Sedium. cap. 1, 2. 23. q. 2. lib. Ait Prætor. sect. Si Debitorem. ff. De his quæ in Fraud. Creditorum.
[p] 1 Cor. vii. 12.

had not at all interposed, but St. Paul made it a law to the Christian churches; and whoever shall prevaricate it, shall bear his burden. And indeed it were a vain thing to suppose, that all human laws were derived from the law of nature, or the divine positive; or that those which were not so derived, could not be good and reasonable, and that the authority binding them were incompetent. For whatsoever is derived from the law of God, cannot, by men, admit variety, nor suffer diminution, or go into desuetude, or be extinguished by abrogation: and then it would follow, that no king could command any thing but what was necessary before he commanded it; and nothing could be a law to the Persians, but what also did oblige the Greeks; and nothing could bind in the one hundred and twenty-fifth olympiad, but what was decreed before the days of Semiramis; and there were no laws but those of the Medes and Persians; and there could be no provisions made for new necessities, and the government of commonwealths could never be improved by experience, and all lawgivers were as wise at first as ever they could be. All which are such foolish consequences,—that it must be granted, that whatever human power can justly ordain, or prudently, or necessarily, or probably,—all that is bound upon the conscience of the subject certainly and to all events as the laws of God himself. And therefore Plato said well, "that before the law is made, men may judge of it, but after the sanction, not at all:" that is, it is so indifferent in its nature, that it is fit to be considered and disputed; but when it is made a law, there remains nothing but a necessary obedience. And to the same purpose Aristotle[q] largely discourses; for when he had divided the civil law, πολιτικὸν δίκαιον into φυσικὸν καὶ νομικὸν, the 'natural,' and the 'constituted,' he says, νομικὸν δὲ, ὃ ἐξ ἀρχῆς μὲν οὐδὲν διαφέρει οὕτως ἢ ἄλλως, ὅταν δὲ θῶνται, διαφέρει. The law that is not natural, but decreed by man, "in the beginning it matters not, whether it be made or no; but after it is made, it is a great matter whether it be kept or no." But this whole affair is put beyond all scruple by the words of the Apostle; "Obey your masters, not only the good and gentle, but the morose and harsh;" that is, not only if what he commands be in itself good and fitting, but if it be troublesome, and uneasy,

[q] Lib. 5. Ethic. cap. 7. Wilkinson, pag. 208.

and unnecessary;—any thing, so it be not unlawful: for every thing that God hath forbidden, can be bound upon conscience by a lawful superior. Either therefore all human laws are nothing else but commentaries on Scripture or the natural law, or else are wholly unnecessary, as being nothing but repetitions of the divine laws: and there can be no new law made; or if there can, it must bind the conscience: for all other things bind the conscience by themselves, and without human constitution. If therefore any human constitution, as such, can bind the conscience, it must be of such instances, which either are derivatives from the law of nature, or of things which, before the law, did not bind at all,—that is, of things which, in their own nature, are indifferent.

14. (3.) That human laws bind the conscience, does not depend upon the intention of the lawgiver; for when the arrow is shot out of the bow, it will hit or miss by its own force and order, not by the intention of the archer: and no lawgiver can make a law with a purpose not to oblige the conscience. In the reign of queen Elizabeth, this question was much talked of, and little understood; and some discontented recusants, under the government of the church of England, had so talked the laws themselves out of countenance, that the legislative power durst scarce own the proper obligation of an ecclesiastical, or of a law relating to any thing of religion; insomuch that when the wisdom of the state thought fit to confirm the ancient laws of ecclesiastical fasts, they superadded this proviso, that if any one should affirm that these laws were intended to bind the conscience, he should be punished like the spreaders of false news: and the "jejunium Cecilianum," the "Wednesday-fast," was made without such obligation. Now this is plainly, to them that understand it, a direct artifice to evacuate the whole law: for a law, that is made without intention to bind the conscience, is no law at all; for besides that it is a plain giving leave to any man to break it that can do it without observation, or can bribe the officers, or is bigger than the informers, or not easy to be punished, or that dwells alone, or that is himself a minister of the law;—besides this, I say, it is directly no law at all. For all human power being derived from God, and bound upon our consciences by his power, not by man, he that says 'It shall not bind the conscience,' says, 'It shall

be no law,' it shall have no authority from God; and then it hath none at all: and if it be not tied upon the conscience, then to break it is no sin, and then to keep it is no duty: so that a law, without such an intention, is a contradiction; it is a law which binds only if we please, and we may obey when we have a mind to it; and to so much we were tied before the constitution. But then, if, by such a declaration, it was meant that to keep such fasting-days was no part of a direct commandment of God, that is, God had not required them by himself immediately, and so it was (abstracting from that law) no duty evangelical, it had been below the wisdom of the contrivers of it; for no man pretends it, no man says it, no man thinks it: and they might as well have declared that that law was none of the ten commandments.

15. (4.) Though human laws do not bind the conscience by the intention of the lawgiver, but by the command of God, yet God does bind the law upon the conscience according to the intention of the power that decrees it. For though a father cannot command his son to do a lawful and fitting service, and by his intention make that an obedient son shall not sin against God, because he cannot make disobedience to be no sin; yet by intending less obligation in the law, he makes the crime imputable in a less degree; that is, the authority is the less despised, there is less evil consequent, the mischief is small, the inconvenience little. And therefore the doctors of the canon-law do, to very little purpose, trouble this question with inquiries after signs, when the intention of the lawgiver is to bind to mortal, when to venial sins. For besides that the distinction itself is trifling, according to their understanding of it (of which I have given[r] a large account in a discourse on purpose); and besides that the commands of heathen parents, and masters, and princes, who knew nothing of that distinction (if it had been right), did nevertheless bind their subjects to obedience under pain of sin;—besides these, I say, the lawgiver does not at all make it a sin, or no sin: he only intends it should be kept, and to that purpose binds it with penalties, and consequently and indirectly binds the conscience: but God binds the conscience properly and directly; for the law is divine in respect of the power and authority, but human in respect of the matter and the

[r] Unum Necessarium, cap. 3.

instance; and that is the meaning of these words put into the rule. The conscience of man is by God's law properly and directly bound to obey the laws of men; not indirectly and by the consequence of some other duty, but by a commandment and the purposed solemn declaration of his will in this affair. But this I shall more fully explicate in my answer to the opposite arguments. Now because although the lawgiver's intention does not directly make the disobedience to be sin or no sin,—yet because, indirectly, it hath influence upon the action and the conscience of the subject, it is useful that I set down the rules and measures of the difference; and how we may guess (for it can be no more) at the distinct obligations, which, from the diversities of human laws, are passed upon the conscience.

Rules of Distinction, or the Measures, by which we shall prudently conjecture at the Gravity or Lessening of the Sin of Disobedience to human Laws.

16. (1.) He that breaks a law which is established upon great penalties, commits a great sine: because it is regularly to be presumed that the supreme power puts much upon it, when he is so earnest for its observation. "Rem quæ culpa caret, in damnum vocari non convenit," saith the law [r]; "If there be no fault, there ought to be no punishment;"—they are relatives, and correspond also in their very degree. "Quis dubitaverit hoc esse sceleratius commissum, quod est gravius vindicatum?" saith St. Austin [s]; If the punishment was more grievous, the wickedness also was the more intolerable: "ut juxta mensuram delicti sit et plagarum modus:" that is the measure of the punitive justice,—"that the number of the stripes be according to the measure of the iniquity."—And concerning those things where is any doubt, the subject is not to judge whether the law be very necessary or no; but to judge concerning the intention and mind of the superior, and whether he thinks it very necessary: for he knows best, and by his knowledge and his authority is the most competent judge. This rule hath no exception, unless it be evident that the punishment is imposed for terror, and to affright men from doing that for which, it is not very fit, they should be severely punished: as if a prince

[r] Cap. 2. de Constit. [s] Lib. 2. de Baptis. cap. 6.

should, under pain of death, forbid the hunting of a hare; the greatness of the punishment neither makes nor declares the fact more criminal than it is, in its own nature, under a law, that forbids it under a smaller punishment. But if the case be doubtful, whether the law be of great purposes and design, the greatness of the punishment in a prudent and temperate government, is the best exterior indication. But if the punishment be light and trifling, the offence is so too; for the legislative power can put no more weight upon it than it declares by punishment, but so much it does: and the rule of Alphonso à Castro is very useful here and in some other articles, "Humana lex non magis gravat conscientias quam corpora." For God's law adding energy and sanction to the constitutions of man, binds so far as the prince or as the prelate binds: and this is fully signified in the words and commission of Christ[t] to his church; "Whatsoever ye shall bind on earth, shall be bound in heaven;" for there our blessed Lord constituting a government in his church,—as already there was in the world, though of another nature, and by compulsories external, and a proper jurisdiction (from which the spiritual differs, as I shall explicate in the fourth chapter of this book), did promise to them as to the princes of the world; that is, verify their ministry of laws and judgments. He indeed appointed other manners of coercion, and a distinct administration; but the power of giving laws and judgments he gave them; and he gave it as firmly as to the greatest kings: that is, as he commands subjects to obey their princes, so also to obey their spiritual superiors; as he will punish the rebellious and disobedient to kings, so the disobedient to bishops, and to apostolical prelates; that is, according as every superior can and intends to bind by his temporal or spiritual penalty, God will verify it and condemn the same person with an eternal. Since therefore God's verification of human laws and judgments is after the sanction and for it wholly, it must also be according to it. He that binds what man binds, binds so much and no more; as therefore man intends the obligation, so God obliges the conscience.

17. (2.) If the matter of human laws be great in itself, to prevaricate those laws gives a proportion of greatness to the

[t] John, xx.

crime. But this seldom happens, but when a divine law is complicated with the civil; such as, the prohibition of public stews,—the laws for keeping days of religion, the Lord's day, Christmas, Ascension, and the Incarnation,—the preserving the persons of them who minister to religion, sacred, the immunity and intemeration of holy things as well as holy persons,—the matters of sacrilege, simony, keeping of vows,—together with all specifications and human instances of divine commandments, as, that children should not marry without their parents' consent, that marriages should not be consummate before they be published. To these also are to be added such laws, which, in their own nature, contribute much to the public security or advantage: as, that men should not, in a city, fire their own houses, nor cut the dam of the sea upon their own ground; that they should not, in times of peace, fire a beacon, nor tell false and disheartening news to an army ready to join battle, nor make false musters when the enemy is near.

18. (3.) Though the matter of the laws be, in itself, light and trifling, yet if, by reason of some present appendages and visible or probable consequences, it be great, the conscience is tied to obedience under a great crime. For a single soldier to fly from a battle is of itself no great matter, were it not for the evil example; but because it may affright the next man, and that may scare the rank, and the rank may disorder the company, and so proceed to an intolerable mischief,—therefore the sin is great by the proportion to the evil it is likely and apt to produce. To carry corn abroad is no great matter of itself; but when the price is great and the plenty is little, the mischief it does by accident, is the measure of the sin.

Of the same consideration it is, when an action, of itself light and impertinent, is made the matter of a great scandal. To kneel or to stand at the holy communion, hath been severally used in divers churches ancient and modern; but when a law is made that we shall kneel, and if I do not kneel, he that observes, will think I do no reverence to Christ's body and blood, and, by my example, will learn to despise it; the conscience is burdened with the sin of irreverence something, but very greatly with the sin of scandal.

When the thing of itself is indifferent, and yet the

custom of it is passed into superstition, or causes horror, or some notorious evil effect,—the laws that prohibit any such thing, do bind the conscience to obey under the pain of being guilty of the great evil that is introduced by it. To light up candles by dead bodies is as harmless as any thing; but if it be prohibited for the avoiding of superstition, to which it ministers in some persons, the disobedience hath its value not according to the action, but the evil intention to which it is supposed to contribute. Thus we find a title in the canon[s] law, "de cadaveribus non exenterandis et in frusta concidendis, ut ad alia loca transferantur:" and it is forbidden under the pain of the greater excommunication, "that bodies should be embalmed," that is, "unbowelled and cut in pieces, to be carried to other places of sepulchre remote from where they died." The thing in itself was innocent, and warranted by the practice of whole nations, and had countenance from the examples of Jacob and Joseph; but it did light into the observation of people that thought it cruel, unnatural, and inhuman; and there that opinion, not the nature of the action, gave the weight and value to the disobedience.

When an action, in itself indifferent, is by the law expounded to signify a sin, though in itself it do not, nor in the heart of him that does it,—the disobedience to that law is an act of that sin, or at least of a scandal relative to it. Thus if a civil law were made to forbid women to go in men's clothes, as presuming they that did so, were incontinent and wanton, she that disobeyed that law, was really to be judged wanton, because she would do that which the law so expounded; and her crime was great, not according to the thing itself, but to the sense of the law; she despises her own reputation, does that thing which the law, by which the best judgments are made, judges to be incontinence, and therefore she is justly to be condemned as an incontinent: and upon this account there was a law made, and it is recited 'cap. Si qua Mulier, dist. 30.' where women, under pain of anathema, are forbidden to appear in a man's habit; where the gloss adds, "scilicet ob malum finem," "if it be for an evil end," it is a sin proportionate to that evil end: and therefore when the law declares beforehand, that it shall be judged to

[s] De Sepultur. cap. Corripiantur, cap. 25. q. 3. gl. ad verbum Major.

be a ministry to that evil end, the action is that sin which is so adjudged, and the conscience bound accordingly. But this caution hath no limitation, viz. though the law expounds such an action to be incontinence, and therefore ordinarily it is so to be judged; yet if it really be not so, but be done, upon some great necessity, or for some very good end, though till the publication and approbation of the cause, it be externally and legally dishonest,—yet the conscience is clear: because in an action that is indifferent, and condemned only for a presumptive end, when that presumption fails in the particular, and the indifferent action serves really to a pious, a charitable, or a necessary end, the action is made good, and therefore the conscience is disobliged. For that which is really so, prevails over that which is but presumed so. Thus we find that St. Euphrosyna lived long in a monastery of men; and the church which took cognizance of it, did, upon evidence of her piety and purity, after death declare her a saint: and that St. Eugenia went in a man's habit, to avoid the persecutors of Christianity. for awhile, is told in the 'Menologion' of the Greeks; and her memory as of a virgin and martyr, is celebrated in the Greek church, upon Christmas-eve. And when Nonnus, the bishop of Edessa, had converted St. Pelagia, who, from a common courtesan, became a glorious saint, after the suffering of most severe penances in the mount Olivet, she estranged herself from all probabilities of temptation from vain men, by living in a man's habit concealed all her lifetime: and the church keeps her memorial in honour upon the eighth of October.

If the matter of human laws be, in itself, trifling and inconsiderable, yet if it meets with a people where it is esteemed a crime, and the laws forbid it upon that account of a public disestimation,—it is to be presumed that the laws do condemn it equally to the public fame; and therefore that the conscience is bound accordingly. Thus in the days of Clemens Alexandrinus, the Christians thought it a very horrid thing to wear false hair; and

Calvo turpius est nihil comato,

said Martial[x] to Marinus, 'Nothing is more deformed,' nothing more unhandsome. Now though it be not so in itself,

[x] Lib. 10. ep. 83.

yet when the hearts of men are generally against it, as it was then (though it be not so now), if any law had prohibited the wearing of perukes, the conscience had been greatly obliged, for the law did lay much upon it, even as much as all the evil of the public infamy did amount to. Thus to break a fasting-day, which by custom hath been observed in a church, is a matter of small account; but if a law have forbidden it, and forbids it there where it is commonly accounted a very high impiety, though of itself it be not so, yet under such a law in such circumstances it becomes so, and is to be valued accordingly. And upon this account are those words of St. Chrysostom to be understood; "Adveniente tempore jejunii, etiamsi quis millies urgeat, et infinita cruciet, et cogat vinum delibare, aut aliquid aliud quod jejunii lege non est licitum gustare, patiendum potius esse, quam prohibitum tangere nutrimentum." It was accounted a great matter then to break an ecclesiastical fast: and therefore when a law is supported by such an estimate, that law binds heavily; and it will be a great sin to break it, unless there be a great cause to legitimate or excuse it. In such cases, we must endure a great inconvenience rather than disobey.

Though the matter be little, yet if the legislative power hath a particular eye and value upon it, however it be expressed, if such a value be known or observed, the smallness of the matter is no argument of the smallness of the sin. Thus also, in the foregoing instance of ecclesiastical fasts, are those words of St. Basil to be understood, saying, "Non minus crimen esse violare jejunium ecclesiasticum, quam militi abjicere scutum in bello, aut stationem deserere." Ecclesiastical fasts in his time were the cognizance of a Christian, his defence and guard; and therefore "not to keep them was as if a soldier did throw away his shield in a day of battle, or desert his station." So the prelates of the church did then understand it, so they intended it. When a trifle is made a mark of union, as to wear a branch in war, when the superior sets his heart upon it; in this case, the mind of the supreme becomes a law to his subjects; in the former they become a law unto themselves. Sometimes a small instance is made the trial of obedience; and the superior hath a great authority, but a little diocess, or a few subjects, or small occasions to rule in; in these and the like cases, the smallness of

the matter is not only to be considered, but the interpretation and effort which the superior puts upon it. If he calls every such disobedience a contempt of his authority, and accounts it a dissolution of that community where he governs, or a great violence of order;—it is so in conscience, that is, to be valued beyond the matter. For he that takes a little piece of iron from an iron forge, does no great harm, but if he takes it from a lock or a chain, he disorders the whole contexture.

19. (4.) When an ecclesiastical punishment is superadded to a civil law, or a civil punishment to an ecclesiastical law, it is to be presumed that the lawgiver puts much upon it, and, therefore, the conscience is obliged to obedience under a great sin. The reason is plain;—because he can by no means better and more earnestly signify his purpose of obliging strongly than by using both the swords: he binds more strongly than all the terror of the civil punishment, who besides that, calls in the aids of religion; and that prelate is passionately desirous to secure obedience to his laws, when, besides the bands of God, he calls in to his help the cords of a man, and so secures it by all means. And therefore whatsoever is decreed under pain of solemn excommunication, is therefore ordinarily presumed to be of great band unto the conscience, not only by force of the first rule[y], because it is a great punishment; but also because the civil power does verify that sentence, and inflicts some great temporal evil upon them, that abide in contempt or disobedience to the orders and censures of the church.

20. (5.) The preceptive or prohibitive words in human laws, ordinarily are no sign of a greater obligation of the conscience; that is, when the words of strict command, are the usual style of the court, as it is both in civil and ecclesiastic courts. 1. But if some laws are published with severe clauses of command, and others on purpose and by design with lesser and the more gentle, then the case is evident that there is a difference to be made also by the conscience. And this is in particular made use of by the Franciscans in the observation of the rule of their order. For, "in Clementina, Exivi de Paradiso, sect. Cum autem, de Verborum Significatione," it is determined, that that part of the rule of St. Francis, which is established by preceptive or

[y] Numb. 16.

prohibitive words, shall oblige the friars minors, under a great sin,—the rest not; and this wholly upon the account of the different clauses of sanction and establishment. 2. Another exception there is to this rule; for when the preceptive or prohibitive clauses are reduplicated directly or by some solemn appendage, it is presumed that the conscience is highly bound. Such as are, "We strictly charge and command, we command in the virtue of obedience, upon our duty and allegiance, upon my blessing, as you will answer it at the dreadful day of judgment, upon your oath," and such-like.—And here the reason is plain, because the superior calls in to his aid the interest of some other virtue besides the obedience; as justice or veracity, hope or fear, the helps of God immediately, or a proper appeal to some other great tie of conscience.

21. (6.) However the laws were established, yet according as they go off, or go less, or fall into desuetude, or disobligation, so the band of conscience grows less, till it be quite eased by abrogation; for the law binding by its establishment, and the conscience being bound by the life of the law, as the law dies, the conscience is at ease: and by this rule St. Paul largely proves the Christian churches not to be obliged in conscience to observe the law of Moses, in the seventh chapter to the Romans.

22. (7.) The contempt of any law, be the matter ever so trifling, be the lawgiver ever so much unconcerned, be the public interest ever so little,—yet if it be a law, and still in force, is a great sin, and lays a great load upon the conscience. "Contemptus in omni specie mandatorum pari pondere gravis, et communiter damnabilis," saith St. Bernard[a]; "All contempt of laws, be the matter little or great, is highly damnable;" and the reason he subjoins awhile after[a]: "Convertit in crimen gravis rebellionis culpam levis transgressionis;" "Contempt makes the smallest transgression become a great rebellion." Because here it is not the violation of the law, but of the authority; not the decree, but the power, is undervalued, and ever accuses the lawgiver of want of wisdom, or supposes him to have no power. This is that which, in Leviticus[b], is expressed by "si spreveritis mandata mea, et anima vestra fastidierit judicia mea," "a contemning the

[a] Lib. 1. de Præcept. et Dispens. cap. 11.
[a] Cap. 12. [b] Lev. xxvi. 15.

commandment, and that your soul hate and loathe the judgments."—Such a thing as this, is a deletory to the whole law, and tears the knot that ties the mantle upon the prince's shoulders: and this is acknowledged even by them who believe that human laws do not oblige the conscience; for they confess that the conscience is at least bound so far that the law be not despised. Now then beside that this rule is established not only by its own reason but by concession, there is this advantage to be made of it; that if the conscience be bound so far that the law be not despised, then the conscience is bound so far that the law be obeyed if it can; that is, that it be always obeyed, unless there be a competent and sufficient or probable reason to the contrary. And therefore it is remarkable, that God[c] calls the not obeying of his laws, a despising and loathing them in their hearts: "Si judicia mea exhorruerit anima vestra, ita ut non faciatis," "If your soul so hate my judgments that you do them not;" that is properly to despise them: and so it is in human laws; he that breaks them without cause, despises them,—for nothing else does make him not to obey. For this is a certain rule, 'Causlessly and contemptuously are all one.' If therefore the adversaries[d] in this rule do affirm, that the conscience is bound to obey, unless there be reason to the contrary, then we agree together, and both with truth; and if there be any difference afterward, it is only in assigning what reasons and what causes are sufficient. But if they mean that the conscience is only bound not to despise the law, but may break the law when there is no reason for it, and if she does, commits no sin against God; then by despising the law they must mean something that no grammar and no lexicon ever understood; and that none despises the law but he that rails upon it, and reviles it, or reproaches the authority directly; for indirectly he reproaches the authority that despises the law,—and he directly despises, that for no reason disobeys it: for if for no reason, then it is contempt, for else there can be no account given of the omission; and nothing is a greater contempt than to esteem the law so inconsiderable as to be less than nothing. He that thinks it unlawful, hath a reason, real or imaginary: but he that thinks it lawful, and yet will not obey, and hath no reason why he will not, does despise it infi-

[c] Lev. xxvi. 15. [d] Gloss. in cap. Metropolitanum. 2, quæst. 7.

nitely. Some suppose, that to break a law frequently or customarily, is contempt: but to this I assent not, because there may be a lasting reason why the law is by custom broken: indeed, if there be no reason, then the greater the custom is, the greater is the contempt; but if there be a reason, neither one omission nor twenty can be criminal. But in this particular I like well what is said by the lawyers: "Ex consuetudine indici præsumptionem contemptus, licet ipsa contemptus non sit." "It is a very great presumption, that whoever frequently breaks the law, does despise it:" and upon him that does so, the burden of proving that he does not, by proving his reason, is incumbent.

23. These are the measures, by which we shall account concerning the degrees of obligation of conscience to obey human laws. The use of them is this, that, besides they are helps to alleviate the scruples or the doubts of conscience concerning the greatness of a sin in this instance, and in proportioning our repentance and amends,—they are also of great use both in the judging concerning the reasons of disobeying,—that is, whether the reason be weighty enough to outweigh the impress and intention of the law,—and also of judging what inconvenience is to be suffered to preserve our obedience respectively to any law.

24. It now remains, that, for the confirmation of the truth and explication of the sense of this rule, the objections made be considered.

25. To the first I answer, that to suppose human laws to bind the conscience, is so far from divesting God of his royalty, that it does very much establish it; for it is a part of his royalty to bind the conscience, and therefore he that says, that 'God does bind the conscience to obey human laws,' makes no intrenchment upon that. For although human laws do bind the conscience, yet it is not by virtue or formal energy of the civil power, but by the authority and power of God; the king and the bishop are but Christ's deputies; and his power they exercise, by his power they rule, and to his kingdom they minister. And therefore the civil power does not take cognizance of the conscience, nor pretend a compulsory over it: but God does; and does exercise it, when he punishes the soul eternally for contempt and rebellion against the princes of the people.

26. To the second,—We are to consider, that when it is said, that 'human laws bind the conscience,' the meaning is, it ties us to duty; and we are guilty before God, if we do not obey man: and conscience is not here taken in the physical or natural sense, for a practical understanding alone, but for the whole mind of man informed and commanded by God; in which mind one of the principles or laws of God written there is, that we should "obey them, that have the rule over us:" but besides this, this whole argument is a plain paralogism; for it supposes that because human laws are tied upon the conscience, that they are tied by man, not by God; which is against the true state of the question: therefore if conscience were wholly a habit or an act, or the faculty of understanding, and consequently, in this last case, subject to God alone, who is truth, yet the truth remains unharmed; for it is not man that rules in the conscience, but God, who commands it to obey man, for fear of God's displeasure. Human laws are but the material part in this obligation; the authority and command of God give it life and force upon the conscience: it is like the body prepared by the father of the country, into which God inspires a living and an operative principle.

27. To the third—the answer is easy and short; for granting all that is said, it not being material to the present inquiry whether it be true or no; it is a part of Christian liberty, that the conscience be servant to none but Christ; and whatever be the matter of human laws, if it be not also the matter of a divine law, the conscience is free from that matter of itself; because God, being only the Lord of conscience, and he not having by his law established that matter, the conscience is free as to the matter. But then when a just authority supervening hath made a law in that matter, though the conscience was free from that matter, yet it is not free from that authority: not that the conscience is a subject of that authority immediately,—but because God hath subjected it, and commanded it to obey.

Of Christian Liberty.

28. But for the fuller satisfaction of conscience in this great article, it will not be amiss to give a full, but short account of the nature and pretences of Christian liberty.

In order to which St. Peter explicates this article most excellently, saying, "Be subject to every ordinance of man," διὰ τὸν Κύριον, "for the Lord," that is, for his commandment, and for the interest of his kingdom, and his power, and his glory: for it is a portion of his kingdom, it is the deputation of his power; and he is glorified by our obedience[e], when the princes of the world, by seeing our ready subjection, have no cause to speak evil of us: which was the very argument which the Apostle[f] uses in this question. And therefore St. Peter, who in this inquiry takes notice of our liberty, gives express caution, that though we be free from many fetters and hard services, yet we should not pretend Christian liberty as a cover for sedition and rebellion and disobedience, which he signally calls κακία, we render it "maliciousness:" and if it be used to express the effects and evil consequents, it is very well; but it relating here to the principle of the mischief, it is better rendered, "craftiness[g]," μὴ ὡς ἐπικάλυμμα ἔχοντες τῆς κακίας τὴν ἐλευθερίαν, "not making this Christian liberty a pretence and cover for your *craftiness*:" for they well knew the artifices of the devil, and that he would endeavour to alien the hearts of subjects from their princes, upon pretence of Christian liberty, and of heathen princes from Christianity upon supposition it was no friend to government; and so it fell out in the Gnostics and Valentinians: but against these evils, the apostles, by the Spirit of God and the doctrine of the gospel, made excellent provisions. For as St. Peter, so also St. Paul, used the same caution in this article: for having pressed upon the Galatians to insist upon their Christian liberty, and not to be brought under the yoke of Moses, lest they should stumble at the name of liberty, he charges them not to abuse it, not to extend it beyond its proper limit, not to use it as an occasion to the flesh; and that it may be manifest where it was he intended to fix his rule, he instances in the matter of government, adding, by way of explication, "By love serve one another[h]:" that is, though you Christians be all free, yet there is a bond of charity, by which you are tied to the rules of government and service and subordination; in these things if you pretend

[e] Isai. xxxiii. Luc. i. Apoc. i. et xix. [f] 1 Pet. ii. 13.
[g] See the Doctrine and Practice of Repentance, chap. 4.
[h] Galat. v. 13.

your liberty, it will be but an occasion to the flesh, and a dishonour to the spirit. For our liberty is not a 'carnal' liberty, but it is a 'spiritual[i].' If a slave be called to Christianity, he is the Lord's freeman, but not man's; he is still a servant, and commanded to abide in it, if in that state he be called. And it is an excellent rule, which is given by Calvin[k] in this particular, "We ought to account, that, by Christian liberty, there is nothing gotten to us before men, but only before God."—And it is a horrible folly which abuses some men,—they think that they lose their liberty, unless they get possession of it, by doing against that part which is forbidden: not considering, that if the matter be indifferent, then they may as well do that which is by man commanded, as do the contrary,—they are as free to one as to the other; and therefore, for civility, and for government, and for order, and for humility's sake, since they must use their liberty one way, let them do it that way, which will at least please God as well, and man better. And for their Christian liberty, that is in the spirit, and they need no other testimony but the conscience itself: for the conscience in this also is a thousand witnesses. And therefore truly and plainly the liberty that the apostles speak of, is but a freedom from the "dominion of sin," and a freedom from the terrors and obligation of the law: the first is a freedom of duty, the second a freedom of privilege; the first is a commandment, the second a state of advantage; that is but a working, this is completed; that is designed by Christ, this already wrought, and is the effect of Christ's death, while the other is the product of his Spirit, and the business of the kingdom of grace. But let us see, what is the proper and explicit effect of all this.

1. It is true that we are freed from sin, that is, we are asserted into the liberty of grace and pardon; the band of sin is broken, and we may be rescued from the power, and from the punishment of it: and what then? St. James[l] answers this inquiry, "Whoso looketh into the perfect law of liberty, must be a doer of the work," that is, of the righteousness evangelical; and "this man shall be blessed in his deed." For it is Christ who hath set us free; but yet be

[i] 1 Cor. vii. 20, 21. 24.

[k] Lib. 3. Instit. cap. 19. sect. 10.

[l] James, i. 25.

servants of Christ; his Spirit hath made us free, and asserted us "into the glorious liberty of the sons of God [m]; therefore we are debtors, not to the flesh, to live after the flesh," but we must live a spiritual life, for to do so is to persist in our liberty; it is entering upon that possession which God hath given us: but this is like the gift given to the sons of Israel; all the land of Canaan was their portion, but they were to fight for it, and win it by degrees; but it was long before they were in quiet possession; and so shall we, when we are in the land of promise.

2. It is also true, that we are freed from the curse of the law and the spirit of bondage or servile fear, which was produced by the curses threatened to every transgressor without the abatements of infirmity and the allowances of repentance; and we are adopted into a liberty of the sons of God, we can "cry, 'Abba,' 'Father;'" and God will use us not with the severe rights of a Lord, but with the sweetest measures of a father's government. And what then? what is the effect of this liberty?—By the Spirit of God we cry, 'Abba,' 'Father,' by him we have this liberty, therefore "we must live in the Spirit:" for though we be not under fear, yet we are under love; we are not under the curse of the law, yet we are under the duty; not under the coercive power of the first covenant, yet under the directive power of the eternal commandment. For the Spirit of God makes us sons, yet none are sons but such as are "led by the Spirit [n];" and we freed from the curse and condemnation of the law; but not unless we "walk not after the flesh, but after the Spirit."

3. It is also true that we are freed from the ceremonial law, the law of circumcision, of meats and drinks and carnal ordinances. And what then? "Use it charitably, and take heed lest this liberty of yours become a stumbling-block to them that are weak [o]." Some there are that extend this to a liberty from all things, that are indifferent, as meats, and garments, and days, and ceremonies, and the like. Now if they mean that we are not bound to these things by any law of God under the gospel, it is very true; that is, Christ gave us no commandment concerning them. But if it be meant, that these things are left so free, that there can be no accidental and temporary obligation, rule, or limit, made con-

[m] Rom. viii. 12. [n] Rom. viii 1. 14. [o] 1 Cor. viii. 9.

cerning them,—this is that I am now disputing against. But that this is no part of Christian liberty purchased by the blood of Christ, is evident,—because things, in their nature indifferent, that is, concerning which there was no commandment given, were always free; and to say otherwise were a contradiction in the terms; and no drop of Christ's blood could so vainly fall as to purchase for us what was done already by the nature of the thing. He only rescinded the laws of Moses, concerning the instances commanded there; that is, those which were not indifferent, as being positively commanded, he returned to their own nature, to be used in another dispensation, to be disposed of in another government, in a distinct manner, to other purposes, or, as occasion should serve, to be wholly let alone. But although Christ broke the yoke of Moses, and so left the instances and matters there used to their own indifference; yet he left it as indifferent to the lawgivers to make laws concerning them; for he gave no commandment, that they should always be left indifferent as to external usages. Under Moses they were tied upon the conscience by God himself, and therefore unchangeably during that whole period; but now they are left to a temporary transient use and ministry, to do good, or to promote order, or to combine government: and if governors had not a freedom to use them in government, as well as private persons to use them, if they would, in their own persons,—Christian liberty had been made for subjects, and denied to Christian princes and Christian priests.

4. There is yet another liberty[p] called "the liberty of glory," or "the glorious liberty of the children of God;" that is, the "redemption of our bodies" from disease and pain, from death and corruption: but for this we must stay till the last adoption: for what Christ is by generation and proper inheritance, that we shall be by adoption, if we belong to him. Now of Christ in his resurrection it was said[q], "Thou art my Son, this day have I begotten thee." That was the last generation or right of sonship, to which when we are adopted, we shall be partakers of the glory; but that was at Christ's resurrection, and this shall be in ours.

5. Now there being in the days of the apostles so much talk of liberty, and that in so many instances, and, without

[p] Rom. viii. 21. [q] Acts, xiii. 33.

question, made the subject of many sermons, and much table-talk, and many disputes, and used as an argument to persuade strangers, and to comfort the faithful, and the devil being so ready to make use of any prepared lust, or mistake, or ignorance, or fancy; it could not be but many weak and many false persons did instantly dream of a temporary liberty, that sons were free from the laws of parents,—wives, of husbands,—servants, of masters,—subjects, of princes: the apostles, knowing how great a confusion this would be to all relations and states of men, and what an infinite reproach it would be to the religion, stopped this avenue of mischief, and not only dogmatically described the duties of all inferiors, but took care also to do it in those places where they had occasion to speak of Christian liberty, that there might be no pretence to do evil. For Christianity neither could nor ought to have been received, if the preachers of it had destroyed governments. The effect of this discourse is plainly this, that Christian liberty does not warrant disobedience to human laws, or liberty from their obligation. Whereas therefore the Apostle[r] says, "Ye are bought with a price, be not ye the servants of men," it is not to be understood of the conscience or mind of men, as the objection affirms, but only is an advice of prudence, to the purpose of the preceding words (in the twenty-first verse), "If thou mayest be made free, use it rather:" that is, 'Since it is more convenient for the advantages of religion, and the service of Christ, by the price of whose blood you are redeemed, that ye may serve him all your days, therefore you are free, be not easy to give or part with your liberty, but use your state of liberty for the advantage of the service of Christ;' for that nothing else is meant, appears in the words[s] he immediately subjoins, "Brethren, let every man wherein he is called, therein abide with God:" that is, your being the servants of men is not inconsistent with your service of God, nor that servitude incompossible with Christian liberty. But yet suppose that the interpretation, used in the objection, be right, and that, "Be not ye the servants of men," is to be understood of the conscience or mind of man; yet, save only that it was not so intended by the Apostle, it can do no harm to this question: for the understanding and the mind may be

[r] 1 Cor. vii. 23. [s] Ver. 24.

free, when the hands are tied; and a man may have the liberty of opening and judging, when he may not have the liberty of acting,—which is all is pretended to by the empire of human laws. For as Origen excellently, "This is nothing but an intellectual liberty, concerning which let a man contend in an intellectual and evangelical manner, that is, by good arguments and the spirit of meekness, and there is no harm done."—This is the whole sum of the doctrine of Christian liberty. Concerning which if any man desire to read more words, and longer discourses, and some intrigues, he may please to see them in Driedo, who hath written three books, and Belliolanus, who hath written twenty books, of Christian liberty[t].'

29. To the fourth I have already answered both in the beginning and end of the answer to the former; and it proves nothing but what is granted. For to use the same instance; you may fast, when you are commanded by your superior; but you must not think, that fasting is a part of the divine service. It is true, it is no part of divine service, the fasting of itself is not, but the fasting in obedience is. For though man commands fasting now, or so, and God does not; yet God commands that we should obey those commands of men; and then the conscience is συνείδησις Θεοῦ, "the conscience of God," or "towards God[u]," it is his subject and servant, and his liege-man: and yet at the same time the law of man pretends not to rule the conscience immediately, and therefore the conscience is free[x], and may judge the thing of itself to be no divine commandment; but the will is not free, and the duty is bound upon that, when the understanding is at liberty. "Errat, si quis existimat servitutem in totum hominem descendere; pars melior ejus excepta est. Corpora obnoxia sunt, et adscripta dominis: mens quidem sui juris est," said Seneca[y];—and from him Aquinas[z]. The whole

[t] Vide etiam Francisci de Silvestris Opusculum de Evangelica Libertate.

[u] 1 Pet. ii. 19.

[x] If any man have but a right understanding that it is all one before God to eat flesh or eggs, milk or fish; that to him it matters not whether you wear a red or a white garment in your times of solemn prayer; this is enough, says Calvin, lib. 3. cap. 19. sect. 10. Instit. he need not tie himself to either, but if he does, his conscience is still free, though his action or choice be determined. And so it is thought the law of his superior determines him.

[y] De Benefic. iii, 20. 1. Ruhkopf, vol. iv. pag. 114. [z] 2. 2æ q. 104. art. 5.

man is not in subjection; the body indeed is under lords and laws, but the mind is as free as air.

30. To the fifth I answer, by denying the consequence of the argument. For though human laws do bind the conscience, yet it follows not, that it is put into the power of man to save or damn his brother; because human laws bind the conscience, but not by force of human authority precisely, or in itself, but by virtue of the divine commandment: and therefore a prince cannot make a law and threaten damnation to the breakers of it, because he cannot inflict it; but he may say, that he that breaks it, will sin against God, and God will inflict damnation upon the rebellious and disobedient. But then whereas it is objected, that this makes the broad way to hell broader, it is a mere scare-crow; for God only can enlarge or straiten this way efficiently and formally; but 'objective et occasionaliter,' by way of instance and occasion, by giving new laws to endear obedience in new instances when it is for the public good, hath in it no inconvenience: every minister of the word and sacraments, by every invitation of his people to a more strict religion, does make the damnation of the disobedient greater, and by every check of conscience, and by every opinion of our own, we become a law unto ourselves, and make the way of our conversation narrower; and every offer of grace, and every call of the Spirit, does add moments to the eternal misery of them that do resist; and yet it were not well to be without them, for fear of that accidental evil. For it is to be considered that these aids, and all good laws, are intended for good to us, and will bring good to us if we obey; but the very reward itself being offered, makes also our punishment just and reasonable if we refuse. "Ex te tua perditio." The law is not in fault, but the rebellious man ruins himself, who, by occasion of the law, might have received an increase of glory, if he had pleased.

31. To the sixth the answer is given in the premises: Human authority does not make the action of disobedience to be a sin. It makes that the not compliance of the subject is disobedience; but it is the authority of God, who makes disobedience to be a sin: and though no human power can give or take grace away; yet we may remember that we our-

selves throw away God's grace, or abuse it, or neglect it, when we will not make use of it to the purposes of humility, charity, and obedience; all which are concerned in our subordination to the laws.

32. The seventh objection hath two parts; the one concerns the civil power, the other the power ecclesiastical. Concerning the civil, it is affirmed to be unreasonable, that the power, which cannot remit sins, should bind to sin; and therefore the civil power cannot bind the conscience, because it cannot remit the sin, to which it binds. In which argument there are four terms: and therefore it is a perfect fallacy. For it is true, that it is reasonable, that the power, which binds, should also loose: but that the civil power cannot loose in the same sense, in which it can bind, is false; for the civil power can untie that, which it hath tied, unless, by tying, be meant tying to one thing, and loosing be meant of another. The civil power binds to obey; the same power can untie this band; by dispensing with the person or abrogating the law. But when it is said, the civil power cannot remit the sin, therefore not bind to sin, it is a sophism,—because binding and loosing do not signify in the same manner. For it does but accidentally bind to sin, and in the same manner it does also ease the conscience: it makes the law to which God binds the conscience; it takes off the law, and from the conscience God takes off the obligation. But because it does not by itself bind the conscience, but occasions the conscience to be bound by God, therefore it hath nothing to do to remit the sin, for that must be the act of God; but the law can loose what it bound, and where it bound, and as it bound, that is, not the sin, but the subject-matter, the instance, and the occasion. But now concerning the ecclesiastical power, the objection says that it hath no power to make laws, but such as are in the matter already decreed by God; and therefore it doth not bind but what God hath bound already; and consequently hath of itself no power to bind the conscience. To this I answer, 1. That it is true, neither the ecclesiastical nor the civil power does by its innate authority oblige the conscience; but both powers can make laws, to the observation of which God doth oblige conscience. 2. It is an error to say, that the ecclesiastic power cannot make laws in things not decreed by God. For the supreme

civil power is also ecclesiastical, if it be Christian, and hath a power in the external regiment of the church; and therefore to make laws in such parts and accidents of government, in which God hath left no special direction: and for the proper power of the ecclesiastics, that also extends beyond the giving commandments in matters of express duty commanded by God; as I shall make appear in its own place. 3. If it were granted that the church could not make laws in things not decreed by God, yet when God hath decreed the thing, the church can make laws concerning the order of the things, the measure and the manner, the number and the weight, the adjuncts and the circumstances; and that is a field large enough for her to make laws to oblige the conscience. And therefore although it were ridiculous and contemptible, injurious and uncharitable, for the church to pass her greatest censures upon persons that transgress "bono animo," or through unavoidable infirmity, in small inconsiderable instances, circumstances and unconcerning forms of law and unconsidered ceremonies; yet the smallest thing may be placed so as to be of great concernment; and when these things accidentally become great, the censures of the church may be prudently and charitably inflicted. But what power the church hath in making laws, will afterward be considered in its place; thus much was of present necessity for the answer of the objection.

33. To the last there might be many answers given. It may suffice, that the argument is expressly false; for supposing that human laws do directly bind the conscience, it does not follow that it is as great a sin to break the laws of man, as to violate the laws of God: that it is a sin it does follow, but not that it is so great. For the law of God against idle words does oblige the conscience, but it does not therefore follow, that it is as great a sin to talk idly as to kill a man. But this sophism relies upon this false supposition, that all things that bind the conscience, do bind in the same degree, to the same measures of iniquity. For if they do not, then human laws may bind the conscience, and yet they may be broken at an easier rate than the commandments of God. 2. But then I add, that this is according to the subject-matter, and the evil consequent of the action. For suppose a prince oppressed by a rebel party, as Pompey was by Cæsar;

Photinus that told the king of Egypt, where he lay hid, did a greater fault than if he had railed upon Pompey, expressly against the commandment, "Thou shalt not speak evil of the ruler of the people." To open the secrets of a king may be a greater sin, and do more mischief, and proceed from greater malice, than to call my brother fool. For a soldier to desert his station may be a greater crime than to steal a shilling. 3. And yet it cannot be denied, but there is great difference between the laws of God and the laws of man in their obligation. Concerning which, in order to many cases of conscience, it is fit that I give account.

The Difference of divine and human Laws in their Obligation.

34. (1.) The law of God binds the conscience immediately, and by the right of God; the law of man binds the conscience mediately, and by the interposition of the divine authority: so that we must obey man for God's sake, and God for his own.

35. (2.) The laws of God bind the will and the understanding; that is, we are bound to obey, and bound to think them good. But human laws meddle not with the understanding; for that is a prince, and can be governed as he can be persuaded, but subject to the empire of none but God: but the will is the subject of human laws; not only that the will be bound to command the inferior faculties and members to obey and do the work of the law, but of itself precisely it is bound: for it is not enough that we do the outward works, but the will must be, of itself, obedient. "Whatsoever ye do, do it heartily," ἐκ ψυχῆς ἐργάζεσθε, "do it from your very soul;" that is, cheerfully, willingly, without murmuring: ὡς τῷ Κυρίῳ, καὶ οὐκ ἀνθρώποις, "for ye do it not to men, but to the Lord[a]."

36. (3.) The divine laws are lasting and perpetual; but human laws cease to bind the conscience, by desuetude, by contraition, by contrary reason, by intolerable inconvenience, by dispensation, and lastly by abrogation.

37. (4.) Divine laws oblige the conscience not only to an active obedience, but to activity and earnestness to do them, to seek opportunities, to omit none to do them presently.

[a] Col. iii. 23.

Human laws oblige to an active obedience, but not to a spontaneous offer, and ultroneous seeking of opportunities. It may be a sin, it is always an infirmity, to seek for excuses and dispensations in divine laws: but it is lawful, by all fair means, to seek to be freed from the band of any human law, that is not of public concernment, and is of private incommodity. A man may decline a burden of the law, or seek a privilege and exemption. The citizens of Rome were tied to keep guards in course, and do other duties; but he that had three children, had a right of exemption; and he that hath none, may lawfully desire and petition for the privilege. The burden of a human law may be thrust upon another, if it be done by just and charitable means; but in the laws of God every man must bear his own burden choosingly and delightfully.

38. (5.) Human laws only consider the outward action, not the secret opinion; you must obey man, when, at the same time, without sin, you may believe the law to be imprudent or imperfect, or fit to be annulled. But in the laws of God, we must submit our most secret thoughts, and we must be sure so to obey human laws, as we keep for God the prerogative of his: but though to God we must give account of our thoughts, yet human laws meddle not with them at all. "Cogitationis pœnam nemo meretur," saith the law [b].

39. (6.) Human laws oblige only that they be not despised, that is, that they be not transgressed without a reasonable cause: but the laws of God must be obeyed in all cases; and there is no cause to break them, and there can be no necessity upon us to commit a sin. In the obedience to human laws, we may suppose there was a weakness in the sanction,—they could not foresee the evil that was future, the inconveniences upon some men, the impossibilities of many, the intolerable burden upon others: and therefore although a reason is always to be had, when we do not obey, and that a good one; yet the reason and the goodness of it are not to be the greatest and the best, or to be exacted according to the strictest measure of necessity alone. For though the laws of God bind to obedience without dispute, without diminution, without excuse, and in all necessities and accidents that can supervene; yet beyond that which is good, that

[b] Ff. de Pœnis.

which is equal and probable and profitable, human laws do not bind: but of this in the sequel.

40. (7.) He that despises the law of God, dies for it; and he that neglects it, is accounted to despise it: the not doing it, is, by interpretation, a contempt of God's law. He that despises human laws, is also guilty before God: but he only is accounted to despise it, that voluntarily and without reason disobeys. But he that out of the multitude of other affairs, or an incuriousness of spirit, unknowingly or ignorantly neglects it, by not thinking of it, is in most cases innocent before God: but is tied to submit to the punishment if he be required and deprehended. This only is to be added, that a great and a dissolute negligence even in human laws is so far from excusing the breach of the law, that it doubles the guilt: "Dissoluta negligentia prope dolum est," saith the law*. "A great negligence is accounted malice."

41. (8.) Ignorance of the laws of God excuses no man, because they are sufficiently revealed to every man; and he is not only bound to inquire much, if there should be need,—but there is also so clear a communication of them, that a little inquiry will serve the turn, and, therefore, no man is here excused by ignorance. But in the laws of man, ignorance is easier pleaded, and does more excuse, and does unavoidably happen to many men in very many cases; and they are less bound to inquire, and a less matter makes the ignorance probable and quit from malice: of all which a prudent and a good man is to be the judge.

42. (9.) When divine and human laws are opposed, these must always yield to those; and without dispute, God is to be obeyed rather than man; and although we must obey man for God, we must never obey man against God: and therefore it was excellently counselled by Ben Sirach, "Let not the reverence of any man cause thee to sin."

43. (10.) As a consequent to the former, all the ministers of justice are bound to be more severe in exacting obedience to God's laws than to their own, in an equal or like matter; they must be easy in the matter of their own laws, and zealous for God: and this also does prove, that, where the effect and the appendages and circumstances do not alter it, it is, in the whole, a less sin to break a human law, than to break a

* Ff. Mandati, lib. Fidejussor, et ff. de Action. et Obligat. lib. 1. sect. Is quoque.

divine: that is, although both are sins, yet in the nature of the action it is of a less degree of crime to break the law of our superior than of our supreme, of man than of God.

44. (11.) Divine laws are imposed upon the people; but human laws are imposed indeed, but commonly by their consent, explicit or implicit, formal or interpretative, and without acceptation in a sweet regiment may indeed, but are not usually, passed into the sanction and sacredness of laws[d]. For the civil government is not absolute, and mere and supreme; but in some senses, and to some purposes, and in some degrees, limited, conditional, precarious, and mixed, full of need, and supported by them who are to be ruled, who therefore are to be regarded.

12. Some add this; The divine laws bind both in public and in private, the human in public only: that is, because human laws take no cognizance of what is secret, therefore neither do they, of themselves, bind in secret. But this although in speculation it hath some truth, yet, when it is reduced to practice, the consideration is different. For though man's laws know not what is in secret, and therefore cannot judge; yet God, that binds human laws upon our consciences, knows the most secret breach of laws, and he judges and discerns. But this hath some difficulties in it, and many very material considerations, and therefore, is to be distinctly handled in some of the following pages. This only for the present. When in private we can be excused or innocent before God; in that private, and in those circumstances, human laws oblige not[e]. But God's laws equally oblige both in public and private, respectively to the subject-matter. Of themselves, human laws have nothing to do with private actions; that is, neither with the obligation, nor the notice.

45. There are many other material differences between the laws of God and man, as to their obligation upon conscience; which I shall afterward explicate upon the occasion of particular rules. The great sum of all is this, so far as relates to conscience; The law of God binds stronger, and in more cases, than human laws. A breach of a human law is not so great a sin, nor is it so often a sin, as a breach of the divine; the advantage both in the extension and the in-

[d] Vide rule 6. of this chapter.

[e] Rule 4. of this chapter.

tension being (as there is all reason it should) on the part of God; that God, who is in all, may be above all.

46. Thus they differ; but, in order to the verification of the rule, it is to be remembered, that, in the main obligation of conscience, they do agree. The divine law places things in the order of virtue and vice; and the sacraments are therefore good, because they are appointed by Christ, our great lawgiver; and in the old law the eating of swine's flesh was therefore evil, because it was forbidden by the law of God. For all the goodness of man's will, consists in a conformity to the will of God, which is the great rule and measure of human actions. And just so it is in human laws, according to their proportion and degree: when the law of the church commands fasting, to do so then is an act of temperance as well as of obedience, and to disobey is gluttony; and to wear cloth of gold is luxury, when the law commands us to wear plain broadcloth. To give great gifts at marriages and feasts may be magnificence; but if the law limits to a certain sum, to go beyond is pride and prodigality. This is the work of God, though by the hands of Moses and Aaron: for it matters not by what means he effects his own purposes; by himself, or by his power administered by second causes. The sum is this, which I represent in the words of St. Gregory Nazianzen[f]; "Submittamus nos tum Deo, tum aliis, tum iis qui imperium in terra gerunt: Deo quidem omnibus de causis; alii autem aliis propter caritatis fœdus; principibus denique propter ordinem, publicæque disciplinæ rationem:" "Let us submit ourselves to God, to one another, and to princes: to God, for all the reason in the world: to one another, for charity's sake; to princes, for order's sake, and the account of public government."—But if we refuse to obey men, God will punish us; and if we refuse to obey God, even the prince ought to punish us; and both promote the interests of the same kingdom. Κολάζεσθαι δὲ τοὺς μὴ ἀκολούθως τοῖς διδάγμασιν αὐτοῦ βιοῦντας, λεγομένους δὲ μόνον Χριστιανοὺς, καὶ ὑφ' ὑμῶν ἀξιοῦμεν, saith Justin Martyr; "We pray you, O kings and princes, to punish them who are Christians only in name, and do not live according to the decrees of our great Master:" and then for their own interest this is his account; Θεὸν μὲν μόνον προσκυνοῦμεν, ὑμῖν δὲ πρὸς τὰ ἄλλα

[f] Orat. 17. Apolog. 2. pro Christ.

χαίροντες ὑπηρετοῦμεν, βασιλεῖς καὶ ἄρχοντας ἀνθρώπων ὑμολογοῦντες· "We worship God alone; but in other things we gladly serve and obey you, confessing you to be the kings and princes of the people."—I conclude this in the words of St. Bernard[h]: "Sive Deus, sive homo mandatum quodcunque tradiderit, pari profecto obsequendum est cura, pari reverentia deferendum;" "A law, whether given by God or by man, is to be observed by a like care, and a like reverence;" alike in the kind, but not in the degree.

RULE II.

Human Laws do not oblige the Conscience to an active Obedience, when there is an imminent Danger of Death, or an intolerable or very grievous Evil in the Obedience.

1. This rule is to be understood to be true regularly and ordinarily, and in laws purely human; that is, such, which are not commentaries or defensatives of a natural and a divine law. For if the forbidden action have in it any thing, that is intrinsically evil,—then the action must not be done, though to save our lives: for no sin ought to be the price of our life, and we ought not to exchange an eternal life for a temporal. Here our blessed Saviour's words are plain, "Fear not them which can kill the body;" and, "What profit have you, if you gain the whole world and lose your own soul?" and, "It is better to go into life maimed and blind, than, having two feet or two eyes, to go into hell-fire;" and, "God is to be obeyed rather than man;" and, "He that would save his life, shall lose it;" and divers others to the same purpose. Now when any thing of this nature is the subject-matter of a human law directly, or if the violation of any thing of a divine commandment be the consequent of the breach of a human law, then the human law binds to its observation though with the loss of our lives.

2. But the question here is concerning mere human laws established in an indifferent matter; and in this it is, that

[h] Lib. 1. de Præcept. et Dispens. cap. 11, 12.

[i] Videat Lector Latomi librum, de Ecclesia et Legis Humanæ Obligatione: et Claudium Carninum, de Vi et Potestate Legum Humanarum; Cajetanum verb. Præceptum, Navarrum, Card. Toletum de hac Materia in Libello de 7. Peccatis Mortal.

the rule affirms, that human laws do not bind to their observation with the danger of life. The reasons are these,

3. (1.) Because the end of such laws is only the good and convenience of the lives of the citizens. "Nemini parere animus bene à natura informatus velit, nisi utilitatis causa et legitime imperanti," said Cicero[k]; 'Nature herself teaches all wise men to obey princes that govern by laws, and for the good of their subjects.'—They therefore being wholly made to minister to the circumstances of life, must not, by our lives, be ministered unto; nothing being more unnatural and unreasonable, than that a man should be tied to part with his life for his convenience only. It is not worth it; it is like burning a man's house to roast his eggs.

4. (2.) "Eye for eye, and tooth for tooth, and all that a man hath he will give for his life:"—It is indeed the voice of nature and of this world, there is no capacity to receive any good when our life is gone; and therefore nothing of this world can make a man recompense for his life. That law therefore that pretends to do advantages to our life, if it shall also require our life for the securing such advantages, takes away more good than it pretends to give, and makes the substance less principal than the accessory.

5. (3.) If human laws do admit of equity, as it is confessed by all men, there is no case so favourable as that of saving of our life: either then we are to suppose the laws to be made of a rock, and to yield to nothing, but for ever to be a killing letter, and an instrument of the hardest bondage;—or else, at least to be so compliant as to yield to her citizens in the case of life and death.

6. (4.) All human power is given to man for his good, not for his hurt; for edification, not for destruction. But it very often happens, and it is so in most laws that are merely human,—that the good of the particular law is not so great as the saving the life of one man; and if such laws should not yield to the preservation of so precious a life, it were a law made for evil and not for good, a snare and no defence, an enemy and no guardian or friend.

7. (5.) Necessity is the band, and necessity is the solution of a law. "Necessitas facit licitum quod alias licitum non

[k] De Offic. i. 4. 6. Heusinger. pag. 38.

est," saith Alexander[l]. To the same purpose is that of Seneca: "Necessitas, magnum humanæ imbecillitatis patrocinium, quicquid cogit, excusat;" "Necessity makes every thing lawful, to which it does compel." But of all necessities that is the greatest, which is the safety of our lives, and a rescue from death: this case therefore is greater than the band of human laws.

8. (6.) The laws of God, in precepts purely affirmative, do not oblige to an actual obedience in the danger of death. This is in such positive laws of God, which do not involve a negative, of an intrinsic malice against a law of nature or of prime rectitude, the laws of God intend not to oblige, when death shall be the reward of him that does obey. Thus the Maccabees break the rest of the sabbath to defend themselves against their enemies; and the priests for the uses of religion, and the disciples of Christ to satisfy their hunger; and Christ was their advocate. Thus David and his followers did eat the shewbread expressly against the commandment, but it was in his great need; and Christ also was his advocate, and defended the fact: and if a probable necessity, that is a great charity and relief, which is but the avenue and the address of an extreme necessity, be a sufficient excuse from the actual observation of a law of God, positive and affirmative; much more shall an extreme necessity excuse from such a law, and therefore yet more strongly does it conclude against the pressure of a human law, in such cases. And therefore the church[m] hath declared that the ecclesiastical laws of fasting do not oblige in case of sickness or old age, or journey and great lassitude; and thus also no man is bound to go to church on a festival to hear divine service, when an enemy lies in wait to kill him; that is, the laws of the church were intended for the good of the soul, and therefore not suffered to do hurt to the body; and as God affirms he will have mercy and not sacrifice,—and therefore himself makes his own laws, that can yield at all, to yield to the occasions and calls of mercy: so does the church in the imitation of God, whose laws and gentleness are our best measure; not that every little excuse and trifling pretence can excuse, but the danger of death, or sickness, or

[l] Ad lib. Si ex toto, ff. de Legibus.

[m] Cap. Consilium de Observatione Jejunii.

some very great evil reasonably feared;—of which I shall, by and by, give an account.

9. Although the rule, thus understood, be certain and evident for these reasons, yet there are some 'adversaria' or seeming oppositions very fit to be considered; because although they do not evacuate the intent of the rule, yet they give limit and further explication to it.

10. (1.) Cajetan affirms, 'Every law that binds under pain of mortal sin, does also bind to obedience, though death attend it;' and his reason is, because we must rather die than commit a sin: and therefore let the instance be what it will, if it ties to obedience by obliging the conscience, it is a sin to disobey,—and rather than sin, we must choose to die. (2.) And that no man should question the power of the superior in obliging to suffer death, we find by the practice and consent of all the world, that princes can call their subjects to battle, and command their officers upon dangerous services, and the soldiers are bound not to desert their station; and the master of the ship was obliged to put to sea in a storm, when Cæsar bade him. (3.) For since the law is intended for a public good, the private interest (be it ever so great) is not to be put in balance against it. And therefore as it is in the laws of God, and in the confession of faith, the brave sons of Eleazar did suffer death with torments rather than eat swine's flesh, and the martyrs gave their lives in a willing sacrifice rather than deny their faith: so in their proportion it must be in the laws of men, they must be kept up, though we die for it. "Melius est ut unus quam unitas," "It is expedient that one man die for the people," one member for the whole body, "rather one than the unity" be dissolved, and the community ruined.

11. To these things I answer, first, that the proposition of Cajetan is not true in its latitude. For whatever binds to obedience under pain of sin, does not intend to bind to obedience with the loss of our life under sin. It is true that we must rather die, than sin; but we do not sin in not obeying, when he that obeys, shall die for it; and that being the question ought not to be presumed by any opponent, in prejudice of truth or probability. Human laws bind to obedience, and God's law annexes the penalty of sin; but then God's law coming in to second man's laws, seconds it but in what it

would oblige. But human laws do not intend, regularly and in all cases, to be obeyed with the loss of life or limb; and when the law does not sufficiently express such intention, we are to presume for liberty and mercy. Now that which follows, is true in some sense; the public is to be preferred before the private, and the supreme power can oblige the subjects to suffer death, or to venture their lives: but this cannot be in all cases. For if in all, then is the magistrate the lord of life and death, which is God's peculiar; but if he could in no case, then he were not the minister of life and death, which is communicated to the magistrate. The inquiry therefore now is,—Since regularly he cannot, and yet extraordinarily the supreme power can tie on his laws upon our shoulders with the cords of death, in what cases this is true, and in what it fails.

12. (1.) When a law is decreed by man with the appendage of a penalty of death for its sanction, it can bind to obedience though death be in it. For since the matter of the law is, by the legislative power, valued at the price of our lives, and by accident the very keeping of it as well as the breaking is set at no less price, the evils of either side being equal, the presumption and advantage must be on the part of justice and the law, not for injustice, tyranny, and disobedience. And so much the rather, because that the obedience should cause death is but rare and accidental, not foreseen, but seldom happening; but the law, threatening death to the disobedient, is a regular, constant, observed, and declared provision: and therefore that which is for good, and regularly is established by the fear of death, is not to be put out of countenance by a contingent, rare, and extraordinary fear, and which also is intended for evil; for which, in this case, there could be no provision, and therefore there ought to be no regard. But this holds only in case that death, on either side, be equally certain; for if it be certain the obedient man shall die by the hand of a tyrant, or an accident that is prepared, and it be likely he may escape from the hands of the law by concealment, or by the relief of equity or charity, then the natural right of self-preservation will be his apology; this man despises not the law, but extricates himself as well as he can, and for a reason, which of all considerations, merely human, is the greatest.

13. (2.) When the tyrant power threatens death to obedient subjects, for no other end but that the subject should contemn the law, then the superior can oblige us to obedience, though we die for it. For it is in this as in those positive and affirmative laws of God, which although they yield to save the subject's life, yet they will never yield in the corruption of the subject's manners: that is, they yield in charity, but not to serve a tyrant's lust. And thus we understand the reason of the difference between the cession of the law of the sabbath in the case of the Maccabees, and the not cession of the prohibition of swine's flesh in the case of the Jewish subjects. For the fear of death was equal to them both: if the princes did not fight upon the sabbath, they should be cut in pieces; and if the subjects did not eat swine's flesh, they should die with torments. But they preserved themselves, and these did not, and both were innocent. The reason of the difference is plainly this; they that offered swine's flesh to these, did it, as enemies of religion; they that fought with those upon the sabbath, did it, as enemies of the nation, only they would take advantages by the prohibitions of the religion. Now when death is threatened by the enemies of the religion, it is with purpose to affront it, or destroy it; and therefore if the mother and her seven sons had complied, it had been a renouncing of their faith and their religion, and a contempt of their law,—which could not be supposed in the other case of the princes, not only because both the princes and the army could not be supposed to be despisers of the law, but also because that very breaking of the law, was with fighting in the defence of the law and the whole nation. And so it is in human laws: the sacredness of the authority may be established with our life; and because to contemn them is always a sin, we must rather die than do it, though the matter of itself be less and do not require it. But this is also to be limited. For it is true that we must rather die than contemn the laws; but yet he that breaks them for no other reason than to save his life, is not a contemner of the law, for he hath greater reason, and a great necessity: and therefore it is not contempt, but it is to be presumed the contrary; therefore this is to be understood, when,

1. Either the law expressly commands we should die rather than break it. Or,

2. Hath declared, that, in such circumstances, to comply shall be a contempt by interpretation. Or,

3. When it is notorious, that it is so intended by the tyrant power: and,

4. The lawgiver expressly requires our fortitude and resistance; for unless it be in such cases, though the law can bind, yet it does not. The sum is this; when death is likely to be the consequent of disobedience by accident and the chance of things or the providence of God abstractly, then it is not to be expounded to be contempt. Because, in such cases, God tempts not. But when an enemy or a tyrant power tempts with the fear of death, he does it in defiance of the law orthe authority, and therefore here we must obey and die. And this distinction is very much to be regarded. For if a prince or an ecclesiastic superior make a law, it is to be presumed that they do it not (for they have no interest to do it) in despite of chance to bind to obedience in the danger of death: and therefore it is a rack of their power to extend it to such a case. But they may have interest and public necessity to exact this obedience, when an opposite power threatens death, that they may destroy the law.

14. (3.) The same also is the case of, 1. scandal, or, 2. injury to religion; or, 3. the confession of our faith; in all which cases we are obliged to die rather than break a positive law of God or man. And this is that which St. Austin [n] said: "Satius est fame mori quam idolothytis vesci," "It is better to die with hunger, than to save our lives by eating things sacrificed to idols:" that is, when the so doing is an interpretative renunciation of our religion, or the laws of our superior forbidding it, or is a scandal to a weak brother. And this is it that St. Paul said; "I will eat no flesh as long as the world stands, rather than cause my brother to offend." But in this there is no difficulty.

15. (4.) Human laws bind to their observation though with the danger of death, when that danger is either expressly in the law, or in the matter and instance of it annexed to the obedience. Thus the supreme power can command the

[n] Lib. de Bono Conjug. cap. 16.

curates of souls to attend a cure in the time of the plague, to go to sea in a storm, to stand in a breach for the defence of the army. For, in these cases, he that hath power to do it, hath expressly commanded it; and to undergo the danger of death is of the substance of the action and obedience, and is neither besides the intention nor the knowledge of the lawgiver: and therefore if the law did not bind to obedience notwithstanding the danger of death, it were no law at all. For to a prince commanding to go to sea in a storm, it is in vain to say 'It is a storm;' and that soldier is a fool that tells his general 'he is afraid to die,' when he sends him upon an honourable service.

16. (5.) But all these cases are to be provided so that they be 'in gravi materia,' that the cause be great, and the necessity urgent, and the public good concerned, for men's lives are not to be jested away:—and though Scipio Major had power to carry his three hundred brave fellows (that he so boasted of in Sicily) to the African war, yet he had no power to command them to run up the neighbouring tower and leap headlong into the sea for bravery and to show his power.

17. (6.) One thing more is to be added. In those cases, in which human laws do oblige even in the danger of death, they do not oblige but for their whole portion; that is, when the whole end of the law is not destroyed or hazarded by the disobedience, but that the caution and end of the law may be secured and observed in all or in the greatest part; a man may then, by not observing the law, save his own life and be innocent. And this is the rule of Aquinas, and it is very reasonable, "Quando est causa rationabilis, et non impeditur finis legis, non peccat mortaliter qui non observat legem;" "Upon a just cause, a man may, without a crime, break a law, when, by such transgression, the end of the law is not hindered."—As if a law be made, that corn shall not be transported, because of an imminent famine, and for the preservation of the citizens,—if any man, to save his life, shall comply with an inevitable accident and necessity, and carry some abroad, his necessity is a just excuse, because he hath not destroyed the end of the law, since his proportion and lading cause no sensible detriment to the public: and though every single man must not pretend, that his single

proportion will be no great matter (because that is not sufficient unless there be a great necessity to do it), yet when there is such a necessity, it will suffice that he did it not but upon a violent need; and what he did was not a destruction to the end of the law; and his example cannot have any evil effect of itself; for other men cannot say, Why may not I as well as he? unless the necessity be as exemplary as the action, and unless they be in the like evident danger of death, they cannot pretend to the like impunity. They that are in no danger, may not, but he that is, may, when the subject's safety can stand with the safety of the public. For although the head may expose one member to loss and amputation to preserve the whole, yet when the whole can be safe without it, the member may preserve itself and refuse to be cut off: and nothing is greater than the safety of a part, but the safety of the whole.

18. But the rule affirms, that not only danger of death, but the avoiding of a very grievous and intolerable evil is sufficient to excuse disobedience to human laws from being a sin. But this is particularly to be considered in the following rules.

RULE III.

The Laws of our Superior that are not just and good, do not oblige the Conscience.

1. Laws are public mischiefs, if they bind to injustice; and therefore to establish any thing that is unjust or evil, is against the nature of laws, and the power of the superior, and the intendment of the supreme. For God gives to no man power above or against himself.

Now a law is unjust upon many defects.

2. (1.) If it be made by an incompetent person,—that is, one who hath no authority. Caius and Seius were fellow-servants to Ruricanus. Caius commands Seius to go to plough. Seius demands, 'quo jure?' And he was in the right. Caius was the wiser man, and he was the older, and better employed, but he was not his lord. "Par in parem imperium non habet," says the law[o].

[o] Clement. Exivi de Paradiso, de verb. Signif.

3. (2.) If it be made in an incompetent and undue matter. When Saul commanded the man of Amalek, "Sta super me, et interfice me," "Fall upon me and kill me," he was indeed a prince, but in that matter he could make no law, and therefore was not to be obeyed. And the ancients tell, that when Mercury was accused for the murder of Argus, though he pleaded that he did it by the command of Jupiter, yet the gods did not acquit him: and though Mark Antony did worse for his own revenge to kill Cicero, yet Photinus did ill too when he killed the brave Pompey, though at the command of his master Ptolemy.

Antoni tamen est pejor quam causa Photini;
Hic facinus domino præstitit; ille sibi [p]:

Antony was infinitely to be condemned, and Photinus not to be justified.—And upon this account, every law made against religion, or any thing of divine sanction and commandment, is void, and cannot oblige the conscience. To which purpose who please, may read an excellent discourse of St. Bernard in his seventh epistle, which is to Adam the monk. Upon this account a thief cannot begin a prescription against the right of the just owner, because his theft, being against the law of God, cannot begin a just title by the laws of men. Thus although the laws [q] permit a man to possess what by an unjust price or bargain he hath acquired, yet because this is unjust and uncharitable to deceive his neighbour, the injurious person is bound to restore, and is not indemnified before God by any warranty from the contrary civil law: "Ye shall not lie," saith our Lord God [r], "nor deceive every one his neighbour:"—and let "no man defraud or circumvent his neighbour in bargaining," saith St. Paul [s]. Κατὰ τὴν ἀγορὰν ἀψευδεῖν, said the old Attic law, from the voice of nature; which Cicero [t] well renders, "Tollendum esse ex rebus contrahendis omne mendacium," "No lie must at all be used in bargaining:" and therefore the law of man to the contrary is invalid: though, I suppose, the civil law intends only to bar an action in the outward court, but not to give warrant to the conscience.

[p] Martial, iii. 6. Mattaire, p. 62.

[q] Lib. in Causæ. sect. idem Pomponius. ff. de minoribus. et. lib. item si precio sect. quemadmodum. ff. locati et conducti.

[r] Levit. xix. [s] 1 Thess. iv.

[t] De Off. iii. 15. 5. Heusing. p. 677.

4. (3.) Human laws may be unjust, when a just power, in a competent matter, passes on to excess, and goes beyond its bounds. He that excommunicates one that is not of his diocess, does not oblige the excommunicate person by the sentence: and Pilate had nothing to do with the holy Jesus, till Herod had sent him back to him; for to his jurisdiction he did belong. Thus if a priest or a bishop absolves a guilty person, he binds himself, but looses not the other. For no excess of power produces any effect of law, or tie upon the conscience. And to this purpose is that rule of the law[u], "Sententia non à suo judice lata, nulla est:"—which is excellently rendered by St. Paul[x], "What art thou, O man, who judgest another man's servant?"—Upon this account, all human laws prescribing to the conscience, or giving bounds to the thoughts, are null. For in these things God only is judge, and all other judicatories are incompetent: I say, all other judicatories: for as for sentences declaratory of a divine law, that is not under this restraint. But of that in its own place.

5. (4.) Human laws may be unjust, by a defect of the just and due end; that is, when the law does not contribute to the public advantage, but wholly to his private who made the law. If the law be apt to minister to the public good, whatever the private interest and design of the prince be, it may spoil the man but not the law. If a prince, espying the luxury of feasts and garments, make sumptuary laws, and impose fines upon the transgressors, and does this only to get the money,—indeed he is not a good man: but so long as the law is good, it does oblige the conscience. The enemies of the memory of King Henry VIII. of England, pretend, that he annulled the pope's authority in England, only upon designs of lust and revenge. Suppose this true: yet as long as he did good, though for evil ends, it is the worse for him, but not for us; but if the prince does not, yet the law must, intend the public benefit: and that also is the duty of the prince. "Non prospectantes proprii jura commodi, sed consulentes patriæ atque genti," said the fathers[y] of the eighth council of Toledo; "Kings must not look after their own profit, but make provisions for their country, and their people." "Officium est imperare, non regnum," "To rule is not

[u] Cap. at si Clerici. in Princip. de Jud. [x] Rom. xiv. [y] Cap. 10.

empire, but office," said Seneca;—and therefore the Greeks call kings, *ἄνακτας ἀπὸ τοῦ ἀνακῶς ἔχειν*, says Plutarch, "that signifies persons appointed to take care of and to defend the people."—

> Tu civem patremque geras, tu consule cunctis,
> Non tibi; nec tua te moveant, sed publica damna[a]:

"Take care of the public, not of thy particular; and let the common calamity move thee most:" and since the power itself is designed for the public good, the laws must be so too. And therefore when the law says, that a law ought to be a common precept; that is, 'pro communi utilitate statutum,' says the gloss[b]; that is, 'it must be for the common good.'—"Conditur utilitatis gratia lex," says Plato[c]; "Every just law is made for the good of the people:"—and from him Marsilius Ficinus defines a law to be, "a true manner of governing, which by profitable ways tends to the best end," that is, the public good:—and Isidore[d] says, "Lex erit omne quod ratione constiterit, duntaxat quod religioni congruat, quod disciplinæ conveniat, quod saluti proficiat;" "A law is that which agrees with reason, that is consonant to religion, and accords with discipline, and is profitable and does good."—And therefore if a prince make a law which is for his own profit, and not for the public good, he is a tyrant; and his laws have no sanction but fear, and no tie at all upon the conscience. And this is the doctrine of Aristotle[e], *Ὁ μὲν γὰρ τύραννος τὸ ἑαυτῷ συμφέρον σκοπεῖ· ὁ δὲ βασιλεὺς τὸ τῶν ἀρχομένων.* "A king and a tyrant differ very much: a tyrant considers his own profit, a king the profit of his people:" and under this consideration comes that prince, that lays grievous burdens upon his people. *Τοὺς γὰρ τὰ μεγάλα, μὴ δθεν δεῖ, λαμβάνοντας, μηδὲ ἃ δεῖ, οὐδὲ λέγομεν ἀνελευθέρους, οἷον τοὺς τυράννους, πόλεις πορθοῦντας, καὶ ἱερὰ συλῶντας, ἀλλὰ πονηροὺς μᾶλλον, καὶ ἀσεβεῖς, καὶ ἀδίκους,* "Those that take great sums from them they ought not, and those which they ought not,—as tyrants, destroyers of cities and robbers of temples,—we do not call them covetous, but wicked, and impious, and unjust[f]."—And therefore they who do such things by laws made on purpose, do it by tyranny, and there-

[a] Claud. 4. Cons. Hon. 294. Gesner, vol. 1. p. 105.
[b] Lib. 1. ff. de Legibus. [c] In Hippia. [d] Lib. 3. cap. 3.
[e] Ethic. lib. 8. cap. 10. Wilkinson, p. 346.
[f] Lib. 4. Eth. cap. 1. Wilkinson, pag. 142.

fore not by law, or just authority, and consequently by none. In such cases we must suffer as it happens: but we may avoid the burden of the law, where we can peaceably and privately. For all such things as are against the good of the subjects, the law itself declares to be no law; that is, to be more than the superior hath right or leave to do. "Nulla juris actio aut benignitas patitur, ut quæ salubriter pro hominum utilitate introducuntur, ea nos duriore interpretatione contra ipsorum commodum producamus ad severitatem;" says the law[g]: "No law, no charity, suffers us to make that by interpretation hard and against their profit, for whose profit it was first decreed by a salutary sanction." And therefore it is observable, that all laws do infinitely decline all harsh senses, and are ambitious of gentle and benign interpretations; which is, in the whole world, the greatest declaration that lawgivers, as they ought not, so, they profess, they do not, intend, to grieve the subject by an unequal burden. It was a princely saying of Trajan[h], when he put a sword upon the thigh of the prefect of the prætorian bands; "Cape hunc, et, si quidem recte et ex utilitate omnium imperavero, pro me: sin aliter, contra me utere;" "Use this sword on my behalf, if I govern rightly and to the public benefit: if not, use it against me."—That was too much, but his purpose was excellent; he knew it was his duty to rule by that measure only; beyond that his power was incompetent. Ὁ γὰρ μὴ τοιοῦτος, κληρωτὸς ἂν τις εἴη βασιλεύς· ἡ δὲ τυραννὶς ἐξ ἐναντίας ταύτῃ· "He that does not so, is a king by fortune, but indeed a tyrant, and any thing rather than a king." Τὸ γὰρ ἑαυτῷ ἀγαθὸν διώκει, says Aristotle[i]; "For he pursues his own, not his people's good:" and that is φαυλότης μοναρχίας, "the stain of monarchy," that is, plainly tyranny.—Tiberius said well, "Dixi et nunc et sæpe alias, patres conscripti, bonum et salutarem principem, quem vos tanta et tam libera potestate instruxistis, senatui servire debere, et universis civibus; sæpe ac plerumque etiam singulis, neque id dixisse me pœnitet." A good and a gentle prince ought to serve the profit of his nobility, his senate, and citizens; not only all but each single citizen, as there is occasion; and therefore Rodolphus of Austria was very an-

[g] Lib. nulla, ff. de Legibus.
[h] Aurel. Victor. xiii. 2. Dion. Xiph. p. 778.
[i] Ubi supra.

gry with his guards for hindering petitioners to come to him; "Let them come," says he, "for I was not made an emperor to be shut up in a box."—"Sinite parvulos ad me venire," saith our blessed Lord, the King of kings, and the Lord of lords, "Suffer my little ones to come unto me."—But the reason and demonstration of all are contained in those words of Seneca[1], saying a prince should think with himself, "Ego ex omnibus mortalibus placui, electusque sum, qui in terris Deorum vice fungerer," "I am chosen from the heap of mortals to stand in the place of God," to do as he does; that is, to do all things justly, and to do all things for the benefit of the people: now since the prince hath his power from God, he can have no power to do otherwise than God does.—"Admittere in animum totius reip. curam, et populi fata suscipere, et oblitum quodammodo sui, gentibus vivere; noctes omnes diesque perpeti solicitudinem, pro salute omnium cogitare;" so Pliny describes the office of a prince,—"to take care of the whole republic, to live to them not to himself; days and nights to suffer anxiety in thinking for the profit and welfare of all."—This is the limit of a prince's power so far as he relates to conscience. For beyond this the conscience is not bound. The body is, and we must suffer patiently the evil which we cannot deprecate; but laws that are made to purposes beyond these measures, do no ways oblige the conscience. "He is the minister of God for thy good," saith St. Paul; otherwise he is not God's minister, and hath to other purposes none of God's authority, and therefore cannot oblige the conscience to an active obedience in such things where his power is incompetent to command.

6. (5.) Thus, when a law by the change of things or cases is become an enemy to the common good, it is not to be observed, saith Aquinas; and he gives this instance: A law is made that in the time of sieges, the gates of a city be always kept shut; but the guards are not tied to obey this law, when the citizens fly thither from the danger of the enemy: and so in all equal cases, concerning which this is the rule.

7. The prince is to be presumed good and gentle: and if he be not so, he is to be supposed so, and made so at least by fiction of law: whatsoever case therefore does happen in which the citizens are grieved, it is to be supposed that it is

[1] De Clement. i. 1, 2. Rubkopf, vol. 1. p. 434.

besides the intention of the law, and was not in the provision of the prince; but we are to rely upon this, that he who is good and gentle, and a father of his country, would, if he were here and observed this evil, untie the law, that he might not tie us to the evil: and because he is not here, but his will is here, the law with so much evil to us is not to be observed; for his leave to break it is to be presumed.

8. (6.) Hither is to be reduced the injustice of unequal distributions; such as is a law forbidding beggars to go from place to place to seek relief, when there is no relief at home; the law of commanding every village or parish to provide for their poor,—which indeed is piously and charitably intended, but because when it is reduced to practice, it falls heavily upon some, and others touch it not with the top of their fingers, the law which was good 'in thesi,' proves unjust 'in hypothesi,' and therefore does not oblige the conscience; but they who are under it, may not only seek relief by petition, but by avoiding it where they can piously and charitably, according to the measures by and by to be described. For it is the voice of natural justice and reason, which St. Paul urges to his charges, "not that there should be ease to one and burden to another:" this is against equity, as having in it so great disproportionate inequality.

9. (7.) Lastly, of the same consideration it is, that, in the making laws of burden, there be equality and proportion between the burden and the cause of the imposition; that the burden be not greater than the evil it intends to remedy, nor the remedy greater than the disease needs, nor yet greater than men can bear. For what is excessive in these cases, is against the charity and justice of the prince, and is matter of rapine and impiety, not of subsidy and prudent provisions: and therefore, though it may oppress the subject, who hath no remedy but prayers and tears; yet the conscience is at liberty, and may procure remissions by any ways of peace and piety.

10. But in the reducing of this to practice, these cautions are to be observed.

(1.) That though the conscience be free from all laws, which are unjust upon any of these accounts, yet that the law be not disobeyed with the scandal and offence of others, it must be so done that none be taught to rebel, or evacuate

the law upon pretences and little regards; nor that our duty and religion be evil spoken of, nor that the superior be made jealous and suspicious. When our blessed Saviour had proved himself free from tribute, and that in conscience he was not bound to pay it, yet that he might not give offence, he submitted to the imposition. And this caution is given by all the doctors, who follow Bartholus[1] in it.

11. (2.) The inconvenience of the republic must not be trifling and contemptible, but so great as must, in the judgment of good and prudent men, be a sufficient cause of annulling the law, so great as must reasonably outweigh the evil of material disobedience. And therefore, in the injustice of unequal distributions, and imposition of taxes, we are not to complain for every little pressure, nor yet to weigh the proportions in gold scales; for it is a greater duty of charity that the subject quietly bear a little load for peace' sake and example and compliance, than it can be of duty in the prince to make such exact, curious, and mathematical proportions.

12. (3.) The inconvenience and injustice must be certain, notorious, and relied upon, before it can be made use of to the breach of a law. For it is no warranty to disobey, that I fancy the law to be unjust; and therefore, in this case the best scrutiny we can have, is, that either it be so declared by the voice of all men, or the more sober accents of the wise men, or be evident in itself according to the strictest measures; for where there is a doubtful case, the presumption always is for obedience, not against it: for although usually in doubts, the presumption is for liberty, yet that is either between private persons, or when the superior makes a doubt concerning his own laws, then he is to judge for liberty and ease; but in our own cases, and in dispute with a law, the presumption is on behalf of the law, because ordinarily that is the greatest interest, and the greatest reason.

13. (4.) When there is a favourable case for breaking a law, if we have time and opportunity, we must ask leave of the superior. Because as that does honour to the superior, and gives value to the law; so it is the greatest course of security, because it makes him judge, who only can complain. But to this we are not obliged, if the case be evident, or if the danger of evil be imminent and sudden, and there be no

[1] Capite 1. de Constitutionibus.

time or opportunity to require it: in these cases, a leave is to be presumed, or else it need not, for the law does not oblige.

14. (5.) This is to be practised only, when the law is against the public good. For if it be still consistent with the public interest, though it be against the good of a particular person, the law hath left a power of dispensation in the appointed ministers; but a private person may not so easily break the law, at least he is tied to other conditions, and more caution, and a severer conduct: of which I am to give account in the chapter of the Diminution of Laws. But, for the present, the difference is only in speculation: for notwithstanding the personal inconvenience, the law does still bind the conscience of the subjects in general; but if it be against the public emolument, then the law ceases, and it does not oblige. In the first case the particular is to be relieved by a way of his own; of which I am afterward to speak: but in this case the conscience is at liberty. Thus when the church makes a law that upon a certain day the people shall meet in public, and spend their day in fasting and prayer; it is a good law, and may be for the public good, though Petronia and Abbatilla be with child and cannot fast: all are bound, but from these the yoke may be lifted up for the present. But if a church make a law, that all the clergy shall lose their livings and their office, if they marry; here there is a mischief to the public, to a whole order of men; and the law cannot do so much good accidentally, as it directly does mischief. And the confession of Suarez[m] upon another occasion, but in this very instance, is remarkable: "Custodiam virginitatis esse opus supererogationis, quod necessariam non habet conjunctionem cum fine publici commodi; et ergo non posse præcipi lege humana;" "That virginity should be kept, is a work of supererogation, that hath no necessary conjunction with the end of any public good; and therefore cannot be enjoined by a human law." Either then the law of the church of Rome, forbidding the clergy to marry, does not tie them to be virgins, but gives them leave to fornicate; or if it does tie them to a virgin state, she makes a law which is not for the public good, and therefore in which she hath no competent authority. This, therefore,

[m] Lib. 3. de Legib. cap. 30. n. 13.

is an unjust law, and does not oblige the conscience. Δεδιδάγμεθα ἀρχαῖς καὶ ἐξουσίαις ἀπὸ Θεοῦ τεταγμέναις τιμὴν κατὰ τὸ προσῆκον τὴν μὴ βλάπτουσαν ἡμᾶς ἀπονέμειν, said Polycarpus; "We are taught to give to princes and the powers set over us by God, such honour and obedience as may not hurt us."

RULE IV.

A Law that is founded upon a false Presumption, does not oblige the Conscience.

1. The case is this; Francisco Biretti, a Venetian gentleman, full of amours, and used to vain and wanton addresses, courts Julia a senator's daughter, but with secret intent to abuse her and so to leave her. Marco Medici, the father of Julia, by threats and harsh usages, forces his daughter Julia to consent to a contract with Francisco: who perceiving himself surprised, and that the matter was passed further than he intended it, resolved to make the best of it, to make a contract, to lie with her, and so to leave her. He does so, surprises her in the careless hours of the day, and the nakedness of her soul, and with flatteries mingled with the affrighting name of her harsh father, acts his intention, and then pursues it till he was weary of her, and then forsakes her. She complains, and desires remedy. The law declares their congress to be a marriage. But in the meantime Francisco passed into Sicily, and there married Antonia Peronetta, a Sicilian lady; her he loved, intended to make her his wife, and did so. Now the law[m] presumes that after contract, their congress did declare a marriage; for it supposes and presumes a consent, and yet withal says, if there was no consent, it was no marriage. Here Francisco is condemned by the presumption, and relieved in conscience. For if he did not lie with her 'affectu maritali,' but only intended to abuse her, he was indeed extremely impious and unjust; but he made no marriage, for without mutual consent marriages are not made. Yet because of this, the law could no way judge but by outward significations, and 'ut plurimum,' 'for

[m] Cap. Is qui Fidem, et cap. Tua nos, de Sponsal.

the most part' it is so that contract and congress do effect as well as signify a marriage, the law did well to declare in the behalf of Julia: but Francisco, who knew that which the law could not know, was bound to make amends to Julia as well as he could, but to pursue the marriage of Antonia and dwell with her. For the presumption, upon which this law was founded, was false; the congress did not prove a marriage, for it was never intended: the presumption was probable, but failed in this instance, and therefore in this case did not oblige the conscience. Conscience is to be guided by presumptions when it hath no better guide; but when it hath a certain truth to guide it, it is better than the best presumption or probability. Besides this, when a law is made upon a supposition, and relies upon that alone, in case that should fail, it is to be presumed that the lawgiver does not intend to bind. When the men of Ægina were at war with the Athenians, they made it death by their law for any Athenian to be seen in their country. But when Plato was made a slave and was carried thither by a storm, one of the citizens saved his life by an artifice, and did it according to the intention of the law. For the law being founded upon a presumption, that if an Athenian came thither, it was for evil to their town, they could not suspect that Plato had such an evil intention, when they knew his case and his sad story; and therefore ought to judge him quit from the burden of that law.—Don Joseph, of Carreras, a Spaniard, walking one night in Seville, was taken by the alcadi, and found to have arms about him, against the law; but carrying of him to prison they found at the end of that street a man newly murdered: the law presumed him to be the murderer, as it does aptly suspect such persons, who, at unseasonable times, walk armed: he was accused, but finding friends was acquitted for his life, but sentenced to maintain the widow and children of the dead man. He knew himself innocent, and therefore was not bound in conscience to maintain her,—because the law, relying upon a false presumption, was a dead letter, and could not bind.

2. But that there be no error in the practice of this, we must distinguish of presumptions. One sort is in matter of fact, the other is upon presupposition of dangers usually arising: that is of justice, this of caution. The examples

which I have already brought, are all mere and unmixed presumptions of fact; in which cases the rule does hold without exception. But in presumptions of caution it is otherwise. The law does irritate and evacuate the contracts of minors, because they being weak and indiscreet, it is presumed that they do it foolishly whatever they do; and it is fit that the laws should be their defensatives against the evils of their ignorance. But now some minors under sixteen years of age are of a ripe wit, and competent judgment, and have craft enough to make a bargain, to consider what they promise, and to beware of the artifices of evil men. But yet although the presumption of the law fails as to their particulars, yet their parents may annul their promises, their vows, and their professions, though the presumption of the law in their case do fail. The reason of the difference is this: in presumptions of fact, if the truth of the fact fails, the whole foundation of the law does fail; for the foundation is indivisible, and the law had no other support; if any thing of it fails, it all fails. But in presumptions of caution, or of presupposition of danger which does usually happen, it is wholly otherwise; for though it does fail in some instances, yet it is true in most, and is sufficient to support a law, which looks after that which is most common, not after rare emergencies. And therefore the law, in this case, does not, in proper speaking, rely upon a presumption, but a certain judgment; for it is certainly true, that it is so most commonly; and it is presumed so of every particular: at least the law knows not how to distinguish them, and therefore is a just and a wise law, conducing to the public benefit, and consequently is a good measure to the conscience.

3. Only this caution is to be inserted, that if a minor make a contract, as if a young man under sixteen, or a maiden under fourteen, make a contract of marriage, although this is not valid in law till their years of consent be completed; yet if they have a mature judgment otherwise than the law did presume them to have, they are tied in conscience to verify this contract, if all these conditions were observed, which could make the act valid in the law of nature, because no civil law can evacuate a natural; and where they are naturally able, they are, by their own act, under that law, naturally obliged: but this, although it be an essential

consideration as to conscience, yet it is wholly extrinsical to this rule.

4. But there is one distinction more, of use to the explication of this rule. Laws founded upon presumption are either laws of favour or laws of duty. Those that are made in favour, may be made use of only, when that supposition, upon which it is founded, is really true,—but must not be used to the prejudice of any, whether it be true or false. And of this nature, or reducible to it, is the case that Cicero 'de Oratore[a]' speaks of. A Roman citizen, supposing his only son to be dead, declares a kinsman to be his heir. The son afterward appears; and, by a true presumption that if his father had supposed him living, he would not have disinherited him, is relieved against a false presumption, which supposed him dead.—And it hath left a stain upon the honour of David's justice and friendship with Jonathan, that when he had listened to the false information of Ziba against his friend's son Mephibosheth, and gave the land to the informer; he yet, upon a right notice of the cause, restored but half. For this cause, say the doctors of the Jews, God divided his kingdom, and gave the bigger half from his grandchild Rehoboam to his servant. But if the laws be matter of duty, and enjoin something that is good or useful to the public, whether the presumption be right or wrong, they do oblige: and the reason is, because the presumption, whether it was in fact or in caution, yet it was not the whole foundation of the law; or if it was alone built upon it at first, yet it is supported by other arguments strong enough to affirm the law. If a law were made in England, that whoever comes not to divine service in public churches, should be punished by a mulct of twenty pounds a month, the fine of recusancy,—upon a presumption that he that is absent, is so indeed, this law were as much incumbent upon them, that are not recusants: for although the law was, at first, made upon that presumption, yet, because otherwise it commands a very good act, which alone and without the presumption were a sufficient inducement to the law, the conscience of those who are, and those who are not, in the first presumption are equally obliged.

[a] Cap. 38. sect. 175. Harles, p. 116.

RULE V.

Human Laws do bind the Conscience to or from an Act in secret, as well as in public.

1. SOME things are secret or private in their own nature, such as are only the prerogative of God to judge of; as the word of the mind, the thoughts of the heart, the desires and repudiations of the affections, the inclinations and tendencies to an object, love and hatred, the pleasures or displeasures of the fancy, acts of judgment and understanding. These God only knows, and he only punishes. Others are secret, but yet they are such only by accident, and for want of proof; and these also are more or less; for some are seen by one witness, and some by more; and they that are seen, either are brought to judgment, or not. Now according to the parts of these distinctions, this rule is, in several manners, to be verified.

2. (1.) Those actions which were done in secret, but under the observation of a few, when they are brought to judgment change their nature, and become public; and therefore are equally under the power of the law, as if they were done in the market. For in the law, that is called notorious, which is either declared in judgment, or proved by witnesses, or evident by the intuition of the fact. And that actions, in this sense, at first, secret,—are subjicible to laws, is clear by the very examination of witnesses, and the whole process of law. For the judge takes notice of no other notoriety: if a judge sees a thing done, he cannot punish it; he must witness it, and another punish it. All that is notorious to the judge, must be first secret, and then public; that is made manifest or notorious by witnesses and sentences of judges.

3. (2.) Some actions are secret, because they can be proved only by one witness. Now it is true, that, in some cases, one witness is sufficient, as in the case of treason; or, in case of confession, for his own witness against himself is as good as ten thousand, when it is so, it is 'manifestum' as before, and therefore the same thing is to be affirmed of it. But if it be a secret, so that it cannot be competently proved, it is true that the law does not punish it, but it fain would;

and, therefore, declares that the private action is a disobedience and transgression.

4. (3.) If the action be done wholly in secret, then indeed the criminal judges take no notice of it, any more than a man abiding in the city does of his country-house on fire before he knows of it; but as one is an unknown calamity to the man, so the other is an unknown transgression of the law. For that the thing is known or unknown, it alters the case as to the punishment, yet nothing at all as to the offence, the scandal only excepted and the example. Now that the law does intend to forbid such actions, it appears by the acts of scrutiny, and the proceedings against such as come accidentally to be discovered. If a suspicion do arise, or any probability, any fame or rumour, the law begins her process, somewhere by torture, somewhere by examination upon oath, and sometimes gives sentence upon conjectures. Now if to this it be replied, that 'this is the beginning of publication, and the law proceeds only in proportion to its being public;' I answer, that it is true, she can proceed no otherwise: and therefore, if the question here had been, whether secret actions were punishable by human laws, I should have answered otherwise, and so the lawyers dispute it: but here the inquiry being whether, the conscience being obliged, I am to say that the publication of it does not make it to be a sin; this reveals the action, and the law declares or makes it to be a sin: for a man is not hanged for theft, unless he be discovered; but if he be, then it is for his theft he is punished, not for his discovery. The consequent of which is this; that if the action be against the law, be it ever so secret, it is a sin; and here is the advantage of the wisdom and economy of God in the verification of human laws; he confirms the laws of men, and he binds in heaven what they bind on earth, and he also knows in earth what is done in the most secret corner, and judges accordingly.

5. (4.) But as for those things, which are secret in their own nature, such which are not only not known, but not cognoscible by human laws and judicatories,—the case is much more difficult; it being generally taught by divines, that no human laws have power to prescribe internal acts: and consequently that whatever we think or wish, so we do the thing that is commanded, the law of man is satisfied.

Question, Whether human laws can command or forbid inward acts?

6. But having, as well as I could, considered the secret of this thing, I rest finally upon this account. It being certain and confessed, that the laws of man have power to constitute actions of themselves indifferent, into the order of virtue and vice, making that to be incest which before the law was not, and that to be theft which in other countries is lawful, and so in other instances;—if the law does change the action only so as to make it merely to be an instance of obedience or disobedience, then the law hath no power over internal actions: for man is not the lord of consciences and minds, and we are not tied to obey any man commanding an internal act; his judicatory here is not competent, his authority is not sufficient. For it serves no end of the public, and it hath no judicatory, no cognizance, and no interest: and it were as foolish as for a king to sit upon the strand and command the waters not to flow to his feet. But if the law of man have changed an action not only to an instance of obedience or disobedience, but placed it also in the order of some other virtue or vice, as by changing it to incest, or adultery, or chastity, or temperance, respectively, then the law of man hath power over the conscience even in the most secret act; not directly, and by the energy of its own power, but indirectly, collaterally, and by accident, by reason of the laws of God. The reason is plain: because it is not lawful to commit adultery, or murder, or incest, in our heart; the law therefore, that constitutes this action and makes it to be murder, does consequently oblige the conscience not so much as to desire it. "Voluntas facti origo est, quæ ne tunc quidem liberatur quum aliqua difficultas perpetrationem intercepit. Ipsa enim sibi imputatur, nec excusari poterit per illam perficiendi infelicitatem, operata quod suum fuerat:" so Tertullian[o]: "The will is the original of action; and is not freed, when she is hindered from doing what she would. Her own act is imputed to her; for though no event succeeded, yet she did all her part." Thus in the canon-law[p], the inquisitor of heretical pravity is excommunicate, if, either out of hatred or hope of gain, he condemn the innocent,—

[o] De Pœnit. [p] Clementin. 1. sect. Verum de Hæreticis.

or, for love and favour, absolve the criminal: upon which the gloss observes, that 'the superior can punish the sin of the heart, though it never proceed to action;' and to this gloss Panormitan and Adrianus do consent. Now if it be objected, that 'here is an action external complicated with the internal, and that the law proceeds against that, not against this;' I answer, that it is certain the law cannot proceed to sentence against the internal, unless it be, some way or in some degree, public: but that which I affirm is, that the law forbids the internal, or commands it, and that, in case the action be placed in the rank of virtue or vice distinct from the mere obedience or disobedience, and this is a pregnant instance of it; for the condemning the innocent is, therefore, the more forbidden and the more condemned, because it is presumed to proceed from hatred. And therefore Cato argued well in behalf of the Rhodians, against whom it was moved in the senate that a war should be made, because they had some little light conjectures, that they were not well affected to them; and because some of the Rhodians had moved that they might help Perseus the king of Macedonia, in case peace could not be obtained for him; Cato made an oration in their behalf, affirming it to be unreasonable to punish them, because they had a mind once to have made a war. But this was therefore well said of Cato, because there was no proof that the Rhodians did intend it, and secretly or openly decree it. If they had intended it, it was penal; and when the intention had been proved, it might have been more reasonable to proceed to punish their breach of friendship. And thus the Rhodians themselves confessed, that the Romans warred justly with Perseus for intending a war against them; but he so intended it, that he did something towards it; but no city, no nation, would destroy them who did nothing towards the evil which they secretly intended. "Quis hoc statuit unquam, aut cui concedi sine summo omnium periculo potest, ut eum jure potuerit occidere, à quo metuisse se dicat, ne ipse posterius occideretur?" said Cicero[q]; "He indulges too much to his fear, and destroys the public, that will kill any man whom he is pleased to fear, or say that he would first kill him."—And the reason of that is, because there can be no sufficient proof of the secret

[q] Pro M. Tull.—Priestley's Cicero, vol. 7. pag. 963.

thought, without it break forth at least into words and decrees and preparations. But "Injuriam facit, qui facturus est," said Seneca. If it appears he was about to do a mischief, he is guilty; his secret was criminal: and that is it, which is punished as often as it can.

7. And this is more evident in the civil law[s], where the very thought of ravishing a virgin is punished. It is true, this thought was declared by the attempt or address to it: but because it was not consummate, it is evident that human laws bind to more than to or from the external action. The law that punishes the criminal before he hath acted the evil, punishes the internal principally: for in the address and first preparations nothing is done but the discovery of the thought; but when the thought is so discovered, and the action is not done, if the man be punished, it is not for the action, but for the thought. And to this purpose is that of Cicero, in his oration[t] 'pro T. Annio Milone,' "Nisi forte, quia perfecta res non est, non fuit punienda: perinde quasi exitus rerum, non hominum consilia legibus vindicentur. Minus dolendum fuit, re non perfecta; sed puniendum certe nihilo minus:' "Not to punish the fault, because the mischief was not done, is as much as to say, that the laws are not avengers of evil purposes, but of evil events only. Indeed if the mischief be not done, we grieve the less; but if it was but intended, we punish it never the less."—And to this Seneca in his controversies gives testimony: "Scelera quoque, quamvis citra exitum subsederunt, puniuntur."—The same with that of Periander[u]: Μὴ μόνον τοὺς ἁμαρτάνοντας, ἀλλὰ καὶ τοὺς μέλλοντας, κόλαζε, "Not only those that do, but those that would sin, are to be punished."—And to this sense are all those laws which punish the affection, though the effect follows not, are to be understood[x].

8. But this is also further manifest in the differences of chance-medley, manslaughter, and wilful murder; where the action being wholly differenced by the thought of the heart, proves plainly, that the thoughts also are punished by human

[s] Lib. Si quis non dicam rapere, cap. de Episcopis et Clericis.
[t] Cap. 7. Wetzel, pag. 236.
[u] Diog. Laert. i. c. 7. n. 4. Longolii, pag. 103.
[x] Cap. pro humani, Sect. Sacri, de homicidio, l. 6. et l. quisquis, C. ad legem Juliam majestatis; et cap. 1. de schismaticis, Sect. omnem, l. 6. et l. Fugitivus, ff. de verborum Signif. l. Divus, ff. ad leg. Cornel. de Sicariis.

laws, ever, when they are manifest. And if the divines and lawyers would distinguish in this question the punishment from the crime, the court external from the court of conscience, they would not err in this article. For although a man's thoughts without some external action are not punished, because they are not known; yet they could not be punished, when they are known, if they were not punishable and criminal in themselves even against the laws of man. And therefore when Ulpian[x] had said, "Cogitationis pœnam nemo patitur:" Accursius adds, "Si statum in finibus cogitationis est:"—"No man can be punished for his thought;"—that is, if it proceeds no further; for then it is known to none but God.

9. Upon this account we find sometimes, in laws, commands expressly enjoining the internal action. Thus when the council of Lateran had complained of some clerks and prelates, that either wholly omitted their office, or said it negligently, it adds, "Hæc et similia sub pœna suspensionis penitus inhibemus, districte præcipientes in virtute obedientiæ, ut divinum officium nocturnum pariter et diurnum, quantum eis dederit Deus, studiose celebrent pariter et devote:" viz. that "they say their office diligently and devoutly;" which because it is an act of the heart as well as of the outward man, it gives a clear evidence in this inquiry. But above all is that novel of Justinian[y], which the late Greek books have brought to light, it never having been noted by the Latin interpreters;—in which the emperor commanded, that insolvent debtors, who, by misfortune, not by their crimes, were made poor, if they swore their insufficiency,—were to be freed from all further trouble; and the creditors that refused to obey the edict, should pay ten pounds of gold; and διὰ μόνην ἐνθύμησιν, "for their mere thought" of doing otherwise should be put to death.—I end this with the saying of the Jewish doctors: "Quicquid sapientes vetant palam fieri, id etiam in penetralibus vetitum est;" "Whatever the wise men forbid to be done in public, the same must be understood to be forbidden in your closet." It was the saying of Rabbi Bachai.

[x] Lib. 18. ff. de Pœnis lib. Fugitivus, ff. de Verbor. Signific. [y] Novel. 135.

RULE VI.

Human Laws, before sufficient Promulgation, do not oblige the Conscience.

1. As the faults of subjects are not cognoscible without publication; so neither are the wills of princes. "Leges sacratissimæ, quæ constringunt hominum vitas, intelligi ab hominibus debent," says the law[s]. But in this there is no difficulty: all that is made is in the assignation of the sufficiency of the promulgation. A Spanish lawyer, Selva, and he alone, —so far as I have heard or read, affirms the very solemn edition of it and declaration in the court or council to be sufficient. But as he speaks it wholly without reason, so he is to be rejected without further trouble. Others require one proclamation in one or more places, according to the greatness of the province or jurisdiction; but it can never be agreed positively how much is enough. Therefore, so far as our consciences can be concerned in it, these following propositions are certain, and they are sufficient.

2. (1.) It is not necessary, that laws, in their promulgation, be so divulged, as that the notice of them reach every single subject. Not only because, in most laws, all persons are not concerned, but also because it is morally impossible; I mean, in a great province, where the laws are commonly of greatest concern, and the promulgation more to be regarded and more diligently endeavoured. For laws of men are not like the sun, searching into all corners; but as the law itself is such as regards that thing, which happens most commonly, so the promulgation is of a symbolical nature, and can arrive but to most persons.

3. (2.) In all princely and sweet government there must be such a publication of laws, as must be fit to minister to the public necessity and the public duty, that the laws be no snares, but piously intended, prudently conducted, sufficiently communicated, and reasonably exacted with abatement of all those deficiencies which are incident and unavoidable to mankind; so that,—if what be in council judged sufficient for promulgation, do not prove so in the event of things, and

[s] L. Leges, C. de Legib. et Constit.—Vide etiam authent. ut factæ novæ Constit. de Benefic. q. 22. n. 14.

in the province,—the defect be put upon the insufficient publication, not upon the account of disobedience.

4. (3.) Be the publication legally sufficient, or not sufficient, it is certain that the conscience is not tied by the law, till it be known. I do not say but that the prevarication may be justly punished, because the law may be published as well as is morally possible, or prudently and civilly is required, and yet some may inculpably be ignorant of it. But be it so or otherwise, it is impossible that they, who know not of it,can obey; and if they cannot, they cannot be obliged: for that is no law, but madness, which obliges a man to that which is impossible.

5. (4.) The care and sufficiency of publication are wholly incumbent upon the lawgiver, not at all upon the subject; that is, the subject is not bound to seek after the law, but only to see that he do not turn his ear from it, or studiously decline it, or endeavour to be ignorant. For a law, though it be for good to the public, yet to the particular being a restraint upon our natural or political liberty respectively, no man is bound to seek his own fetters, or put the burden upon his own neck, but to wear it well when it is imposed: but to refuse to hear is the first act of disobedience; but to hear is the first instance of obeying; therefore till he hath heard, he is obliged to nothing. This hath no limitation or exception but this:—If the subject hath heard there is a law, he is bound to inquire after it; for then it is sufficiently published: the lawgiver hath done his duty. But before he hath heard, it is to him as if it were not: and that which is not, cannot be numbered, cannot be accounted for. The first is sufficient to oblige him; he is bound, because he knows the will of the lawgiver hath bound him: but then he must inquire for his own sake; for otherwise, he cannot perform his obligation.

6. (5.) Although, as to conscience, the former measures are certain, yet the legislator hath power to declare, when the promulgation is sufficient for the nullifying of all contracts intervening, or evacuating privileges, and changing all exterior events of law; because the being of all these depends upon the will of the prince, and of his law. Only when this is reduced to practice, in the matter of contracts, if they were valid by the law of nature, he that did contract, is obliged to stand to it, if the other requires it; but if it be his

own advantage, he is bound to quit it, if the other recedes and makes use of his advantage. For the law can tie him to suffer inconvenience for the public interest, but not to do any evil. Thus if Titius contract with Mævius to carry twenty tun of wheat from Sicily to Rome, and before the contract a prohibition of such contracts was legally published, and yet he heard not of it; he is bound to obey it: but if Mævius, who is like to be the gainer, stand upon his right of justice and natural consent, Titius must make him amends, but he must not transport the corn. But this is in case they be not both subjects of the same prince. And the reason of this is plain, because the stranger hath a natural right by justice and stipulation, but the subject hath a law upon him; therefore the other is not tied to quit that, but the subject must obey this; not to do an injury, for no law can oblige him to that; but to suffer one that is tolerable and is outweighed by the public advantage. But if they be both the subjects of the same law, the law that forbids one to make the contract, does also, by implication, forbid the other to exact that which is illegal. So that although the law cannot disoblige Titius from verifying a contract, that is valid in the law of nature; yet Mævius can remit his right, and the law can tie him to that.

7. This holds in all things, where the parties can give consent to the invalidating of the contract. But sometimes they cannot, and then the rule of conscience, is, 'Standum est juri naturali,' Whatever was ratified by nature and religion must remain for ever. The council of Trent makes a law, that all clandestine marriages shall be null: she publishes the law, and declares it from a certain time to be valid. A poor vinedresser in the Valtoline hears nothing of it, but gets the daughter of his master the farmer with child after contract 'per verba de præsenti.' The law is urged upon him; the parties are both threatened, and are in that fright willing to recede. But they were told by a prudent confessor, that they could not consent to any such separation; and he told them truly. For in marriage there is a necessitude contracted by a law of nature, and not only a mutual right transmitted to each other, but there is a band of religion, a sacramental tie, or relation that God hath joined, and no man can put asunder. But until the contract is passed so far

as that it is become a marriage in the law and state of nature, the prohibition ought to prevail upon them.

8. Lastly, In privileges there is no difficulty, because the law is not bound to give any at all; and therefore may restrain them at any time, without giving a reason. Thus if a law were made, that all illegitimate children, that were born after the death of the emperor Maximilian, should be incapable of a prebend or benefice in a church; he that heard not of the law, might justly be put out after solemn investiture. For no man is injured, because he hath not a favour done him.

RULE VII.

That a Law should oblige the Conscience, does not depend upon the Acceptation of the Law by the People.

1. This rule hath suffered great prejudice, not only by the contrary opinion of the civilians and canonists, who in very great numbers oppose it, but by all persons almost who live under governments democratical, or do not well consider the powers and consequents of government. But the case in short is this:

2. All governments in the world did either begin right or wrong. If right, it was by divine appointment, or by the multiplication of the posterity of a patriarch, and the αὔξησις, 'increase' of paternal government. This is the natural way, and this is founded upon natural reason, and a divine commandment. This hath in it no evil, and no question; and it is just the beginning of monarchy, it produces no other government.

3. But if the government comes not this way, it comes in wrong. Either from tumults, by necessity and evil experience, being forced to permit and establish an order and government; or directly by war and violence; or else in the destitution of a governor, when all are left to themselves, and none hath power over them, they may do what they list, and order things as they please, and part with as much power as they think fit, and keep some to themselves, and confound all politic principles, and divide power, as two earnest disputants

do divide the truth when they have torn her in pieces, each part running away with that share that comes next his hand.

4. Now from these beginnings of government, several republics and principalities have been established; and when it happened that any famous government entered the wrong way, they became exemplary to others in their polity and in their principles, and made their actions become rules to others. Thus it was that the Roman people, keeping the legislative power in their own hands, made kings, and consuls, and officers, at their pleasure, but their consent was always demanded when a law was to be made, as is affirmed by Asconius Pedianus 'in Orationem pro C. Cornelio,' and by Badæus and Zasius[a]. These laws were made in a convocation of the people, in thirty courts, and were called Curiatæ, as is affirmed by Suetonius 'in Augusto[b],' and in Cicero in his epistles to Lentulus; they were also called 'Populars' by Cicero in his Orations. Now this people so largely reigning over the world, and being exemplary by their wisdom and their laws, did easily transmit this license unto the people of most nations, who needed but little teaching to bridle the power of their princes, to which they were but too much tempted by that 'libido regnandi,' that 'lust of empire' which possesses the greatest part of the world; and by their own strength, which they often made their kings to feel, and would not lend to them in their needs but upon hard conditions. Add to all this, that many princes have been gentle and kind, and many wise, and would not put a bridle upon such an untamed beast without their own consent: not only that they might obey more willingly, but lest they should not obey at all, as knowing it to be better that they should be ruled as they please, than not at all.

—— Libertatis servaveris umbram,
Si, quidquid jubeare, velis ——[c]

This fantastic liberty the people would seldom be without, and they must have what they were resolved on: for when they please, they are all kings.

5. Upon the account of these and some other causes, it is come to pass, that, in many places, laws have their binding

[a] In lib. 2. ff. de Origine Juris.
[b] Cap. 65. B. Crusius, pag. 320. vol. 1.
[c] Lucan. iii. 146. Oudendorp, page 187.

power only by the consent of the people; in their tribes and courts, or by their representatives, or by their manners and customs: and from hence come these sayings of some very wise men; "Lex nullam vim obligandi habet nisi ex more;" so Aristotle[f]: and, "Leges promulgatione constitui, firmari autem usu,' says Gratian: and the civil law expressly,[g] "Ipsæ legesnulla alia causa nos tenent quam quod judicio populi receptæ sunt;" "The reception and approbation of the people is the only firmament and sanction of the law."— Now that the civil law says it, it was 'ex more Romanorum;' among the old Romans it always was so: and Aristotle speaks at the rate of him who had been bred under the popular government of the Greeks, and therefore it is no wonder that any of them speaks so: but as for the words of Gratian, Laurentius and the Archdeacon expound them to mean that the laws receive from the use of the people 'firmitatem stabilitatis, non auctoritatis;' that is, 'de facto,' they are made more firm and lasting by the consent and manners of the people, but not 'de jure' more obliging; according to that of Tertullian[h]: "Neque civis fideliter legi obsequitur ignorans quale sit quod ulciscitur lex. Nulla lex sibi soli conscientiam justitiæ suæ debet, sed eis à quibus obsequium expectat: cæterum suspecta lex est quæ probari se non vult; improba autem, si non probata, dominetur:" "A citizen does not faithfully obey that law (meaning of going to war), who knows not what that is which is to be punished. For that a law is just, is owing in part to him that is to obey it. That law is to be suspected, which will not endure a trial; but if, being tried, it be rejected, it cannot prevail without injustice."—

6. Having now, by this narrative, laid open the secretand foundation of this opinion, and prevented the objections that can be made, the rule is certain and easy. The consent of the people gives no authority to the law; and there is no way necessary to the sanction and constitution, save only to prevent violence, rebellion, and disobedience. But because I am not writing rules of policy, but rules of conscience, I am to say, that if the legislative power be in the prince, that is, if he be supreme, he is to decree the law; but wherever

[f] Lib. 2. Polit. cap. 6. [g] Sect. Leges, dist. 4. lib. de quibus ff. de Legibus.
[h] Apolog. cap. 4.

the authority be, that authority is derived from God, and is only less than he: and although a horse sometime cannot be ruled without strokings and meet and gentle usages, yet, for all that, his rider is his master: and he that said, "Obey them that have the rule over you, and submit yourselves to every ordinance of man for the Lord's sake, whether to the king, as to the supreme,"—&c. did not appoint the supreme to rule by a precarious power; and if he who hath authority, makes a just law, either the people are bound to accept the law, or they despise the authority. And indeed it is a contradiction in the terms, that a law be imposed, and yet that it be no law of itself; that is, that the effect of the cause should be a necessary condition in the cause itself; and that its own work is nothing, unless what it does work, give it force. It must be a law, before they accept it; and if it be a law, they are bound to accept it; and, therefore, their accepting cannot make it a law.

7. In popular governments, the people have their suffrages in the legislative; but then it is, because they govern: but when they have not the legislative, he that hath it, must not ask them leave to use it, when God hath given him power. They indeed who suppose kings to be trustees and ministers of the people, have some pretence (if they supposed true) to affirm the acceptation of the people to be necessary. But yet if they did suppose true, it were indeed a pretence but no more. For when the king is chosen, and is by the people (that I may use the expression of Tiberius) "tanta tamque libera potestate instructus," invested with a princely power, and the legislative; he, by himself or by his senate, according to the constitution of the province, is to make the law, and to punish them that break it, and not to ask them if they will please to obey it. "Lex instituitur, cum promulgatur," says the Authentic: and therefore whosoever does not obey, whether it be a single person, or a multitude, they sin against God; it is obedience in a single person and rebellion in the multitude. All which is true with the provisos of the former rules, that the laws be, upon all their just accounts, in all other things, obligatory.

8. This rule does also fail in all arbitrary conventions and precarious governments; in such which have no coercitive power, but what is by voluntary concession; such which can

convene and dissolve at pleasure, as colleges and fraternities. For as they meet at pleasure, so they must be governed as they please: their power comes not from God, but from man; and their authority is equivocal.

9. Some insert one case here, saying, that 'If a law be refused by the greater part of the people, then single persons are excused, because it is to be supposed that the prince cares not, that single persons observe the law, since so little will serve no interest.'—But if this were true, yet there is in it so much caution to be used, so many provisos, and so much probability to the contrary, that it were as good that it were not true; for it cannot give rest or peace to the conscience. For, 1. Whether the prince do secretly give leave or no, is a presumption of infinite uncertainty. 2. The contrary may very well be supposed; for he that is troubled at the rebellion of many, will not give leave to one to disobey. 3. If these few single persons do submit, they become good examples, and are confessors for the reputation of the king's wisdom and authority. 4. What is evil in the whole, is so in every particular; because the people is but an aggregate body of single persons. 5. "We must not follow a multitude to do evil:" and all rebellion is of that nature, that it is "as the sin of witchcraft;" and who would be a witch, because all the country is so? 6. He that partakes of other men's sins, shall also partake of their punishment. Upon these accounts, I judge it very unsafe for any single person to resist a just law of a just superior, upon hope of escaping in the crowd. But this rule [i] is only true when the law is just and good for public profit and usefulness of the people. For if it be an unreasonable law, it binds not as a law, but as by promise and contract; that is, it does not bind by the sanction of the law, but the acceptation of the people. And so the ancient lawyers are to be understood; "Lex præcepti tollitur, si moribus utentium non recipitur;" "The obligation of the law is taken off, unless it be received into the manners of the subjects." But the instance tells in what sense this is true. The pope and council [k] cannot command continence to a certain sort of persons after promotion against their wills; "quia continentia est res, quæ potest persuaderi, imperari autem non;" "because continence is a thing that

[k] Panormit. cap. Cum Olim. de Cleric. Conjug.

may be persuaded, but not commanded." The matter of the law is to be ordered according to the measures of the third rule; but supposing that, this rule is certain.

RULE VIII.

Human Laws of indifferent Matter do not oblige the Conscience of the Subjects out of the Dominions of the Superior.

1. "EXTRA territorium jus dicenti, non paretur impune," is a famous saying in the canon-law; "A man may safely disobey the law of his prelate, if he be out of the diocess." And the reason is, because, beyond his diocess, he hath no jurisdiction[l]; and beyond his jurisdiction a prince hath no power. "Lex est jus proprium civitatis," saith the law[m]; "The law hath no power beyond its own city."—Thus anciently, in the province of Canterbury, the people did not fast upon St. Mark's day; but if they were within the province of York, they were tied to the common law, or custom of the church besides. Thus also it is in maritime places, especially in the places of the public trade and merchandise: if the several subjects should keep the several laws of their own princes, it would cause great confusion and disorder upon the place of trade; and since it is certain that strangers must live by the laws of the country, where they sojourn, it is certain they are not tied to the laws of their own because they may be contrary.

2. (1.) But this hath divers limitations. For, 1. It does not hold in the substantial matters of religion, where the religions of the country differ. It is not lawful for a subject of England to go to mass in a foreign country; not only upon supposition that the office is suspicious or to be blamed by the measures of the divine law, but if the laws of our country have, upon other prudent and just considerations, forbidden it. The sons of the church of England, professing under the government episcopal, may not lawfully communicate in the Huguenot churches with them that believe episcopacy to be antichristian or unlawful, because this does relate to the evil and detriment of those laws and that go-

[l] Cap. 2. de Constitut. n. 6. [m] Lib. Omnes Populi de Justitia et Jure.

vernment and that authority, under which we still are tied. But in the ceremonial and ritual part of religion, where the religion is the same, we are not tied abroad to our country-customs. A subject of the church of England may stand at the holy communion, or to eat it in leavened bread, if he come into Protestant countries that have any such custom: and the reason of this is, because the contrary would give scandal, to which our own laws neither do nor can oblige abroad; and if any be offended at our different ceremonies at home, he must look to it; we are not concerned in any thing, but to obey our superior, and quietly to render a reason to our brethren.

3. (2.) This rule does not hold in such laws, which are the specification of the divine laws. Thus if a subject of England should be in Spain, and there see his daughter dishonoured, or his wife consent to her shame, and take her in adultery; he may not kill her, though in Spain it be lawful for him to do it. The reason is, because she is not a subject of Spain, but hath an habitual relation to England; and therefore it is murder, if it be done by an English subject. Concerning all his own subjects, the prince of the country and the legislative is to give limits to the indefinite laws of God; and the reason is that which St. Paul gives, because he who hath "the rule over them, is to give an account of their souls." Every law, therefore, is to acquit or condemn her own subjects; and therefore if a Spaniard does dishonour the bed of an English subject in Spain, it is lawful there to kill him; because his own prince's law condemns him, and gives leave to the injured person to be executioner. All these particulars rely upon the same reason.

4. (3.) This rule does not hold, when, though the subject be abroad, yet the action does relate to his own country. Thus it is not lawful abroad to coin or counterfeit the money of his country, to rail upon his prince, to prejudice his subjects, to violate his honour, to disgrace his nation, to betray the secrets and discover the counsels of his prince: because the evil, done out of the territory, being an injury to them within, is as if it were done within. When the dispute was between the Athenians and Thebans about their confines, and the parties stood at a little distance, disputing and wrangling about the breadth of an acre of ground, Timotheus shoots

an arrow, and kills a young Theban gentleman. The Thebans demand, that Timotheus be put to death by the laws of Athens, as being their subject: they refuse to do so, but deliver Timotheus to the Thebans, giving this reason, He shot the arrow within the Athenian limit, but it did the mischief within the territory of Thebes; and where the evil is done, there and by them let the criminal be punished. Being abroad is no excuse in this case. If a subject shoots an arrow into his own country, though he bent his bow abroad, at home he shall find the string.

5. (4.) If the action be something to be done at home, the subject abroad is bound to obey the summons of the law. When Henry II. of England, commanded all prelates and curates to reside upon their diocesses and charges, Thomas Becket, of Canterbury, was bound in conscience, though he was in France, to repair to his province at home. The sum of all is this, A law does not oblige beyond the proper territory, unless it relate to the good or evil of it. For then it is done at home to all real events of nature, and to all intents and purposes of law. For if the law be affirmative, commanding something to be done at home, at home this omission is a sin: "Qui non facit quod facere debet, videtur facere adversus ea quæ non facit," saith the law; The omission is a sin there where the action ought to have been done. But if the law be negative, "qui facit quod facere non debet, non videtur facere id quod facere jussus est." He that does what he is forbidden to do, is answerable to him, who hath power to command him to do it[n].

6. This rule thus explicated is firm; and is to be extended to exempt or privileged places, according to that saying of the lawyers, "Locus exemptus habetur pro extraneo;" "He that lives in an exempt place, lives abroad."

7. By the proportions of this rule it is easy to answer concerning strangers, whether they be bound by the laws of the nation where they pass or traffic. For in all things, where they are not obliged by their own prince, they are by the stranger, and that upon the same account; for if they who are abroad, are not ordinarily bound by the laws of their country (except in the cases limited); it is because the jurisdiction and dominion of their prince go not beyond his

[n] Lib. Qui non facit ff. de Regulis Juris.

own land; and in such cases the place is more than the person: but, therefore, it must go so far, and be the person what he will: yet, in the territory, he is under the law of that prince. He is made so by that place. It is 'lex terræ,' "the law of the land," in which he is: and "in the peace of that he shall have peace," as God said to the Jews concerning the land of their captivity.

RULE IX.

Obedience to Laws is to be paid according to what is commanded, not according to what is best.

1. When a Laconian was fighting prosperously, and had prevailed very far upon his enemies, it happened that a retreat was sounded, just as he was lifting up his hand to smite a considerable person; he turned his blow aside and went away, giving this reason to him that asked him why, "It is better to obey than to kill an enemy."—But when Crassus, the Roman general, sent to Athens, to an engineer, a command to send him such a piece of timber towards the making of a battery, he sent him one which he supposed was better; but his general caused him to be scourged for his diligence: and Torquatus Manlius, being consul, commanded his son not to fight that day with the enemy; but he, espying a great advantage, fought and beat him, and won a glorious victory, for which he was crowned with a triumphant laurel, but for his disobedience lost his head. It is not good to be wiser than the laws; and sometimes we understand not the secret reason of the prince's command, or the obedience may be better than a good turn, or a better counsel; which is very often ill taken, unless it be required. "Corrumpi atque dissolvi officium omne imperantis ratus, si quis ad id, quod facere jussus est, non obsequio debito, sed consilio non desiderato, respondeat," said Crassus in A. Gellius [o].

2. Thus also it is in the observation of the divine commandments: when God hath declared his will, and limited our duty to circumstances and particulars, he will not be answered by doing that which, we suppose, is better. We must

[o] Vide A. Gellium, lib. 1. cap. 13. Oiselii, pag. 67.

not be running after sermons, when we should be labouring to provide meat for our family: for besides that it is direct disobedience in the case now put, there is also an error in the whole affair; for that which we think is better than the commandment, is not better: and this God declared in the case of Saul, "Obedience is better than sacrifice;" No work is better than that which God appoints.

3. This is to be understood so that it is not only left to our liberty, but it is also rewardable, for the subject to prevent a commandment, and to excel the measures of the law in the matter of a commandment, when to do so we know will be accepted, and is to the pleasure and use of the prince. Thus Astyages[P] preferred Chrysantas before Hystaspes, because he did not only obey as Hystaspes did, but understood the mind of the prince, and when he knew what would please him, did it of his own accord. But then this is upon the same account, it is obedience, only it is early and it is forward.

4. This also is to be added, that if the choice of the subject, differing from the command of the prince, be very prosperous and of great benefit, the prince does commonly 'ex post facto,' allow the deed; that is, he does not punish it. P. Crassus Mutius and T. Manlius did otherwise; but they were severe and great examples. But when it is not punished, it is not because it does not deserve it, but because it is pardoned: for if it should miscarry, it would not escape vengeance: and therefore though the prosperous event be loved, yet it came in at a wrong door, and the disobedience was criminal. Δεσπότου μέν ἐστι μόνον τὸ ἐπιτάττειν· δούλων τὸ πείθεσθαι, "Masters are to command, but the province of servants is to obey;" saith St. Chrysostom.

5. This rule is to be understood according to the intention, not according to the letter, of the law; for if the intention of it be that which is better, it is evident that is to be done which is better in the intention,—not that, which is commanded in the letter. But of this in the chapter of Interpretation of Laws.

[P] The passage, to which Bishop Taylor alludes, runs thus: Χρυσάντας τοίνυν, ἔφη, αὐτοσὶ πρῶτον μὲν οὐ κλῆσιν ἀνέμεινεν, ἀλλὰ πρὶν καλεῖσθαι παρῆν τῶν ἡμετέρων ἕκαστος· ἔπειτα δὲ οὐ τὰκαιλευόμενον μόνον, ἀλλὰ καὶ ὅ, τι αὐτὸς γνοὺς ἄμεινον εἶναι πεπραγμένον ἡμῖν, τοῦτο ἔπραττεν. Cyrop. viii. c. 4. §. 11. (J. R. P.)

CHAP. II.

OF LAWS PENAL AND TRIBUTARY.

RULE I.

It is lawful for Christian Magistrates to make penal Laws, not only pecuniary and of Restraint, but of Loss of Member and Life itself.

1. WHATSOEVER is necessary, is just; that is, that must be done, which cannot be avoided: and therefore the power of the magistrate in punishing the transgressors of their laws of peace, and order, and interest, is infinitely just[q]; for, without a coercitive power, there can be no government, and without government there can be no communities of men; a herd of wolves is quieter and more at one than so many men, unless they all had one reason in them, or have one power over them. "Ancus Rex primus carcerem in Romano foro ædificavit, ad terrorem increscentis audaciæ," says Livy[r]: "King Ancus seeing impiety grow bold, did erect a prison in the public market." When iniquity was like to grow great, then that was grown necessary. And it is observed that the Macedonians call death Δάνος from the Hebrew word Dan, which signifies a judge, as intimating that judges are appointed to give sentences upon criminals in life and death. And therefore God takes upon himself the title of a king and a judge, of a lord and governor; and gives to kings and judges the title of gods, and to bishops and priests the style of angels[s].

2. But here I will suppose, that magistracy is an ordinance of God, having so many plain scriptures for it: and it being by St. Paul[t] affirmed, that "he beareth not the

[q] Nec quisquam sibi putat turpe, quod alii fuit fructuosum. Patercul. lib. ii. cap. 3. §. 4. Krause, p. 72.

[r] The original words of Livy are,—"Ingenti incremento rebus auctis, quum in tanta multitudine hominum discrimine recte an perperam facti confuso, facinora clandestina fierent, carcer ad terrorem increscentis audaciæ, media urbe, imminens foro, ædificatur." i. cap. 33. §. 8. (J. R. P.)

[s] 1 Tim. vi. 15. Psal. lxxxii. 6. [t] Rom. xiii.

sword in vain," and that they who have done evil, ought to fear; and of himself he professed that if he "had done aught worthy of death, he did not refuse to die;" and a caution given by St. Peter, that Christians should take care that "they do not suffer as malefactors;" and it being made a note of heretics, that they are 'traitors,' that they are 'murmurers,' that 'they despise dominion,' that 'they speak evil of dignities;' and that we are commanded to "pray for kings and all that are in authority," for this reason, because they are the appointed means that men should 'live a peaceable and godly life;' for piety, and peace, and plenty too, depend upon good governments: and therefore Apollo Pythius told the Lacedemonian ambassadors, that, if they would not call home Plistonax their king from banishment, and restore him to his right, they should be forced to till their ground with a silver plough[u]; that is, they should have scarcity of corn in their own cities, and be forced to buy their grain to relieve the famine of their country: for so the event did expound the oracle; they grew poor and starved, because they unjustly suffered their king to live in exile. Add to these, that we are often commanded to "obey them that have the rule over us;—to be subject to every ordinance of man;—that rulers are not a terror to good works, but to the evil;"—and many more to equal purposes.

3. Neither ought the precept of charity and forgiveness, which Christ so often, so earnestly, so severely presses, evacuate the power of princes. For the precept of forgiving offenders, does not hinder parents from correcting their offending children; nor masters from chastising their rebellious servants; nor the church from excommunicating them that walk disorderly; these things rely upon plain scriptures, and upon necessity, and experience; and they do evince thus much without any further dispute, that some punishment may stand with the precept of forgiveness; or at least, if he who is injured, may not punish without breach of charity, yet some one else may. And if it be permitted to the power of man to punish a criminal without breach of charity, the power of the magistrate must be without all question; and that such a power can consist with charity, there is no doubt, when we remember that the apostles themselves, and the pri-

[u] Ἀργυρέᾳ εὐλακᾳ εὐλάξειν. Thucyd. v. 16. Beek, vol. 1. pag. 712.

mitive churches, did deliver great criminals over "to the power of Satan, to be buffeted, even to the destruction of the flesh, that their souls might be saved in the day of the Lord." St. Paul delivered Elymas to blindness, and St. Peter gave Ananias and Sapphira to a corporal death.

4. But the great case of conscience is this: Although all punishments less than death may, like paternal corrections, consist with charity (for they may be disciplines and emendations), yet in death there is no amendment; and therefore to put a man to death 'flagrante crimine,' before he hath mortified his sin, or made amends for it; that is, before it is pardoned, and consequently to send him to hell,—is the most against charity in the world, and therefore no man hath power to do it: for God never gave to any man a power to dispense justice to the breach of charity; and that dispensation which sends a man to hell, is not for edification, but for destruction.

5. To this I answer, (1.) That it is true that whatsoever is against charity, is not the effect of justice; for both of them are but imitations and transcripts of the divine attributes and perfections, which cannot be contrary to each other. But when the faults and disorders of mankind have entangled their own and the public affairs, they may make that necessary to them, which, in the first order and intention of things, was not to be endured. Thus we cut off a leg and an arm to save the whole body; and the public magistrate, who is appointed to defend every man's rights, must pull an honest man's house to the ground, to save a town or a street: and peace is so dear, so good, that for the confirming and perpetuity of it, he may commence a war, which were otherwise intolerable. If therefore any evil comes by such ministries of justice, they who introduced the necessity, must thank themselves. For it is necessary it should be so: though it be but a suppositive and introduced necessity; only he that introduced it, is the cause of the evil; not he, that is to give the best remedy that he hath.

6. (2.) No man is to answer for an accidental effect that is consequent to his duty: "In omni dispositione attenditur quod principaliter agitur," says the law [x]; "I am to look to what is principally designed, not what accidentally can hap-

[x] Lib. Si quis nec causam, ff. si certum petatur.

pen." If I obey God, it is no matter who is offended. If I see that my neighbour will envy me for doing good, and his eye will be evil because I am good,—I am not to omit the good, for fear his soul should perish; when my good is rather apt to do him good than evil: he is to answer for it, not I, for nothing that I do, makes him evil; he makes himself so by his own choice. There are many men, that turn the grace of God into wantonness, and abuse the long-suffering and patience of God, and turn that into occasions of sin, which God meant for the opportunities and endearments of repentance; but if God should leave to be gracious to mankind in the same method, out of charity and compliance with the interest of the souls of such miserable persons, as they would be never the better, so the other parts of mankind would be infinitely the worse.

7. (3.) It is true that charity is the duty of every Christian; but as all Christians are not to express it in the same manner, so there are some expressions of charity which may become some persons, and yet be the breach of another's duty: and some may become our wishes, which can never be reduced to act; and because that is all we can do, it is all we are obliged to do. When Vertagus was condemned to die for killing the brother of Aruntius Priscus, the poor father of the condemned man came and begged for the life of his miserable son; but Priscus out of the love of his murdered brother, begged with the same importunity that he might not escape; and both their effects were the effects of charity. The charity of a prelate and a minister of religion is another thing than the charity of a prince. A mother signifies her love one way, and a father another; she, by fondness and tender usages,—he, by severe counsels and wise education; and when the minister of religion takes care concerning the soul of the poor condemned man, the prince takes care, that he shall do no more mischief, and increase his sad account with God. The prince and the prelate are, both of them, curates of souls and ministers of godliness; but the prince ministers by punishing the evil doer, and rewarding the virtuous,—and the prelate by exhortation and doctrine, by reproof and by prayer, by sacraments and discipline, by the key of power and the key of knowledge. The effect of this consideration is this; that the magistrate,

by doing justice in the present case, does not do against charity: because he does minister to charity in the capacity and proper obligation of a magistrate, when he does his own work, which being ordained for good and not for evil, the office is then most charitable and most proper for him, when he ministers to charity in his own way that God hath appointed him. By his justice he ministers to the public good, and that is his office of charity. That is his work; let others look to their share.

8. (4.) The cutting off a malefactor is some charity to his person, though a sad one; for besides that it prevents many evils, and forces him to a speedy recollection, and a summary repentance, and intense acts of virtue by doubling his necessity; it does also cause him to make amends to the law; and that oftentimes stands him in great stead before the tribunal of God's justice, "paulum supplicii satis est Patri;" God is sometimes pleased to accept of a small punishment for a great offence; and his anger many times goes not beyond a temporal death, and the cutting off some years of his life.

9. (5.) That which concerns the magistrate is, that he be just and charitable too. Justice of itself is never against charity; but some actions of supposed charity may be against justice. Therefore the magistrate in that capacity is tied to no charity but the charity of justice, the mercies of the law; that is, that he abate of the rigour as much as he can, that he make provisions for the soul of the criminal, such as are fit for his need, that if he can delay, he do not precipitate executions. In what is more, the supreme, the lawgiver, is to take care, and to give as much leave to the ministers of justice as can consist with the public interest. For here it is that there is use of that proposition, that all men are not tied to all the exterior kinds and expressions of charity, but as they are determined accidentally. It will not be supposed that the judge is uncharitable if he do not preach to the condemned criminal; or if he do not give him money after sentence, or visit him in prison, or go to pray with him at the block; these are not the portions of his duty: but as his justice requires him to condemn him; so his charity exacts of him as judge nothing but the mercies of the law.

10. (6.) Thatwhich is necessary to be done, is not against any man's duty, or any precept of Christianity. Now that some sorts of persons should be put to death is so necessary, that if it were not done it would be certainly, directly, and immediately, very great uncharitableness; and the magistrate should even in this instance be more charitable than he can be supposed to be in putting the criminal to death. For a highway thief and murderer, if he be permitted, does cut off many persons who little think of death; and such as are innocent as to the commonwealth, are yet very guilty before God: for whose souls and the space of whose repentance there is but very ill provision made, if they may live who shall send many souls to hell, by murdering such persons who did not watch and stand in readiness against the sad day of their sudden arrest. If all such persons were to be free from afflictive punishments, the commonwealth would be no society of peace, but a direct state of war, a state most contrary to governments; but if there were any other less than death, the galleys, and the mines, and the prisons, would be nothing but nurseries of villains, which by their numbers would grow as dangerous as a herd of wolves and lions: and if ever they should break into a war, like Spartacus and his rabble, who knows how many souls should be sent to hell for want of time to finish their repentance?

11. (7.) If the condemned criminal had never any time to repent, if he had never thrown away any opportunities of salvation, he had never come to that pass; and if he have, who is bound to give him as much as he will need? And if it be unlawful for a magistrate to put a criminal to death that hath not sufficiently repented, then no villain shall ever die by the public hand of justice; and the worse the man is, the longer he shall live, and the better he shall escape: for in this case, if he resolves privately that he never will repent, he hath blunted the edge of the sword, and weakened the arm of justice for ever, that she shall never strike.

12. (8.) God hath given to magistrates, a commission which they must not prevaricate: if therefore a criminal falls under the rods and axes of the consuls who are God's ministers for good to them that do well, and for evil to them that do evil; it is not the magistrate who is to be blamed,

but the hand of God that is to be revered, who by this hand cuts him off, and, it may be, therefore thus cuts him off, because he will give him no longer time. However, the magistrate is to look to his rule, not to rare and accidental events, which are only in the power of the Divine Providence, and not in the will of the man, to prevent.

13. (9.) No man can say, that a condemned criminal, that makes the best use of his time after sentence, or after his just fears of it, or after the apprehension of the probabilities of it, shall certainly be damned for want of more time. For as no man knows just how much time is necessary; so neither can he tell, how deep the repentance of the man is, nor yet how soon God will return to mercy. Therefore upon so great uncertainties, and the presumption and confidences relying upon such a secret, to omit a certain duty is no way allowable. It is true there are, amongst some wise and pious persons, great fears in this case; but fear is very good, when it is made use of to good purposes, to obstruct the course of sin, but not the course of justice. And some men fear in other cases very bad; which yet ought not to be made use of to preserve the lives of murderers. Some fear that all Papists shall be damned, and some say that all Protestants are in as bad condition; and yet he that thinks so, would suppose the case too far extended, if it might not be consistent with charity to put (for example's sake) the gunpowder traitors to death, till they had changed their religion. Whatsoever we fear, we are to give our brethren warning of it, while it is time for them to consider; but these doubtful disputes must not be used as artifices to evacuate the purposes and defensatives of laws. And since the magistrates cannot know what the sentence of God concerning such persons shall be, they may hope well as readily as ill, and then there is no pretence to arrest the sentence beyond the prudent and charitable periods of the law.

14. (10.) No change in government, no alteration of laws, no public sentences, are to be made or altered upon the account of any secret counsel of God; but they are to proceed to issue upon the account of rules, and measures of choice, and upon that which is visible, or proved, that which is seen and heard, that which God commands and public necessities

require ; for otherwise there can be no rule, no orderly proceedings, no use of wise discourses, but chance and fear and irregular contingencies must overrule all things.

15. (11.) The magistrate gives sentence against criminals for single acts, not for vicious habits ; for concerning these he hath nothing to do, and if the criminal perish for these, it is only chargeable upon his own account. But if, by the hand of justice, he dies for a single act,—the shorter time, that is usually allowed to those that are appointed to die, may be so sufficient, that, if the criminal make full use of it, his case is not so desperate, as that the objection can prevail: for if there be nothing else to hinder him, it may be very well ; but if there be any thing else, that he, and not the magistrate, was first to have considered ; for himself knew of it, the magistrate did not.

16. (12.) Every man that lives under government, knows the conditions of it, those public laws, and the manners of execution ; and that he who is surprised in his sin by the magistrate, shall be cut off like him, who, by a sudden sickness, falls into the hands of God. It is a sudden death[y], which every man ought to have provided for ; only in this case it is more certain, and to be expected: and he that knows this to be his condition, if he will despise the danger, when he falls into it, cannot complain of the justice of the law, but of his own folly which neglected life, and chose death and swift destruction.

17. Though from these considerations it appears, that the pretence of charity cannot evacuate that justice, which hath given commission to all lawful magistrates, and warrant to all capital sentences, and authority to all just wars, in which it is more than probable many will be killed that are not very well prepared ; yet this power of inflicting capital punishments must not be reduced to act in trifling instances, for the loss of a few shillings, or for very disobedience to command; it must not be done, but in the great and unavoidable necessities of the commonwealth. For every magistrate is also a man; and as he must not neglect the care and provisions of that, so neither the kindnesses and compassion of this. Nothing can make recompense for the life of a man, but the life of a better, or the lives of many, or a great good of the whole community.

[y] See the Doctrine and Practice of Repentance, chap. 5. sect. 5. p. 280.

But when any of these is at stake, it is fit the innocent be secured by the condemnation of the criminal. And this was excellently disputed by Cicero[z] in his argument against Calenus upon this very question: "Hoc interest inter meam sententiam, et tuam: ego nolo quemquam civem committere, ut morte multandus sit: tu, etiamsi commiserit, conservandum putas. In corpore si quid ejusmodi est, quod reliquo corpori noceat, uri secarique patimur; ut membrorum aliquod potius, quam totum corpus intereat: sic in reipublicæ corpore, ut totum salvum sit, quidquid est pestiferum, amputetur. Dura vox, multo illa durior: Salvi sint improbi, scelerati, impii: deleantur innocentes, honesti, boni, tota respublica."—Cicero would have no citizen deserve to die; but Calenus would have none die though he did deserve it. But Cicero thought it reason that "as in the body natural we cut off an arm to save the whole; so in the body politic we do the same, that nothing remain alive that will make the other die. It is a hard sentence, it is true, but this is a harder: Let the wicked be safe; and let the innocent, the good, the just men, the whole commonwealth, be destroyed."

18. This we see is natural reason, but it is more than so; it is also a natural law, expressed and established by God[a] himself: "He that sheddeth man's blood," in man, or "by man shall his blood be shed:"—which words are further explicated by the Chaldee paraphrast; "Qui effuderit sanguinem hominis cum testibus, juxta sententiam judicum sanguis ejus fundetur;" "He that sheds the blood of man with witnesses, his blood shall be shed by the sentence of the judge." For the majesty of the supreme prince or judge

——— justi
Vim terroris habet, procul an propè, præsto vel absens:
Semper terribilis, semper metuenda, suoque
Plena vigore manet, nullique impunè promenda
Creditur, et semper cunctis, et ubique timetur;

said Guntherus[b], with greater truth than elegance: "He hath the force of a just terror in all places, at all times, and upon all persons."—And, in pursuance of this law, all communities of men have comported themselves, as knowing themselves but ministers of the divine sentence; and that which is the voice of all the world, is the voice of nature, and the voice

[z] Philippic. viii. 5. Priestley's edition of Cicero, vol. 3. pag. 1471.
[a] Gen. ix. 6. [b] Lib. 4.

of God. The sum of these things I give in the words of St. Austin: "Non ipse occidit qui ministerium debet jubenti, sicut adminiculum gladius est utenti. Ideo nequaquam contra hoc præceptum fecerunt, quo dictum est, 'Non occides,' qui Deo auctore bella gesserunt, aut personam gerentes publicæ potestatis, secundum ejus leges, hoc est, justissimæ rationis imperium, sceleratos morte puniverunt." They who make just wars, and those public persons, who, according to the laws, put malefactors to death, do not break the commandment which says, 'Thou shalt not kill.' For as the sword is not guilty of murder, which is the instrument of just executions,—so neither is the man that is the minister of the judge, nor the judge who is the minister of God; Θεοῦ διάκονος ἔκδικος εἰς ὀργήν, "God's minister of revenge and anger:" and by fear to restrain the malice of evil men, and to prevent mischief to the good, is the purpose of authority and the end of laws. So Isidore[c]: "Factæ sunt leges, ut earum metu humana coerceatur audacia, tutaque esset inter improbos innocentia, et in ipsis improbis formidato supplicio refrænaretur nocendi facultas." Fear is the beginning of wisdom, and fear is the extinction and remedy of folly; and therefore the laws take care by the greatest fear, the fear of death, to prevent or suppress the greatest wickedness.

RULE II.

Penal Laws do sometimes oblige the guilty Person to the suffering the Punishment, even before the Sentence and Declaration of the Judge.

1. That this is true concerning divine laws is without peradventure, not only because the power of God is supreme, mere, absolute, and eternal, and consequently can oblige to what, and by what measure, and in what manner, and to what purposes, he please; but also because we see it actually done in the laws and constitutions both Mosaical and evangelical.

2. He that struck out an eye or tooth from a servant, was

[c] Lib. 4. Etymol. cap. 21. et habetur. dist. 4. can. factæ sunt leges.

bound to give him his liberty[d]; that is, as his servant was a loser, so must he that caused it: the man lost his tooth, and the master lost the man; he gains his liberty, that lost an eye. Now that this was to be done by the master himself without compulsion from the judge, is therefore more than probable, because God, who intended remedy to the injured servant, had not provided it, if he left the matter to the judge, to whom the servant could have no recourse without his master please; and if he give him leave to go, it is all one as doing of it himself, for he that gives leave that himself be compelled, first chooses the thing, and calls in aid from abroad to secure the thing at home. But, therefore, God bound the conscience of the man, tying him under pain of his own displeasure that the remedy be given, and the penalty suffered and paid under the proper sentence of the obliged criminal.

3. To the same purpose was that law made for him, that lies with a woman in the days of her separation,—he shall be unclean until the evening; now that this was not to be inflicted by the judge, but that the guilty person should himself be the executioner of the penalty, is therefore certain, because by another law concerning the same legal uncleanness it was decreed, that the fact shall be capital, that is, if it come before the judge: of which I have already given account[e].

4. Thus also God imposed upon him, that ate of the holy things unwittingly, the burden of paying the like, and a fifth part besides, for punishment of his negligence and want of caution[f]. This himself was to bring, together with the price of redemption or expiation. Now this being done against his will, might also be done without the observation of any other; and yet upon the discovery he was thus to act his own amends and penalty.

5. And indeed the very expense of sacrifices, to the bringing of which the criminals were sentenced by the law, is sufficient demonstration of this inquiry; for it was no small burden to them, and diminution of their estates, to take long journeys, and bring fat beasts and burn them to the Lord; but to this they themselves were tied[g], without

[d] Exod. xxi. 25, 26.
[e] Lib. 2. chap. 2. rule 3. n. 8.
[f] Levit. xxii. 14.
[g] Num. v. 6.

injunction from the priest, or sentence from the judge. And this appears, because they were tied to a distinct punishment if the matter fell into the judge's hand: they were in case of theft to restore fourfold: but if they had sinned in this instance or in any other that men commit, they were bound to come and confess it, and shall recompense the trespass with the principal thereof, and add a fifth part to him against whom they have trespassed. This the Jews call "confessionem super peccato singulari," a special confession of a sin; to which because the sinner was sentenced by the law, and had a lighter amends appointed him if he did it voluntarily, but a much heavier if he came before the criminal judge; it follows plainly, that God tied these delinquents to a voluntary or spontaneous susception of their punishment. It was indeed an alleviation of their punishment; for the criminal was bound to confess, say the Jewish doctors, and say when the beast goes to sacrifice, thinking as if he were going as the beast is, "O Domine, ego reus sum mortis, ego commeruissem lapidari propter hoc peccatum, vel strangulari propter hanc prævaricationem, vel comburi propter hoc crimen;" "O Lord, I am guilty of death, I have deserved to be stoned, or strangled, or burnt alive, for this crime," according as the sin was: but his being the executioner of the divine sentence in the lesser instance, did prevent the more severe and intolerable condemnation.

6. For indeed such are the mercy and dispensation of God: God's law decrees evil to him that does evil; if we become executioners of the law of God and of his angry sentence, we prevent the greater anger of God; according to that of St. Paul[i], "Judge yourselves, brethren, that ye be not judged of the Lord." If we humble ourselves, God will exalt us; if we smite, he will spare; if we repent, he will repent: but therefore, in these cases between God and us, it is so far from being a grievance, that we become executioners of the sentence decreed by law against us, that though it be an act of justice in God to oblige us to it, yet it is also a very great mercy. For as in the law of Moses, the spontaneous susception of the punishment did prevent the heavier hand of the judge from falling on him; so in the evangelical law, it prevents the intolerable hand of God. So that in relation

[i] 1 Cor. xi.

to the law of God it is an action of repentance; and repentance being a penal or punitive duty, he that was tied to bring in his own oblation, to make his own amends, to confess willingly his sin, was in effect tied to nothing but to a voluntary repentance.

7. And thus it is also in some proportion in human laws. For by these premises thus much is gained, that to oblige the criminal to a spontaneous suffering of the punishment, appointed by the laws of a just superior, is not naturally unjust; and it is not always intolerable; and it may be very reasonable; and it may be a design of mercy, or at least a very apt ministry of justice: and therefore, there can be no reasonable objection against it, but that, upon just account, and in just measures, and for great reason, and by the proportions of equity, it may be done in human laws.

8. For, (1.) Whatsoever is not against the law of nature, nor the law of God, may be done or enjoined to be done by the laws of man; for the power of magistrates is the next great thing to God and nature. Now concerning this, we have security not only from the foregoing instances, but from the law of Christ concerning divorce upon the instance of adultery: the offending party loses his or her right respectively over the body of the other, and cannot lawfully demand conjugal rights. The injurious person may beg for pardon and restitution; but is unjust, if he require any thing as duty. The woman loses her rights of society, and the man of superiority, in case they be adulterous; and if they do not quit their former rights, and sit down under their own burden, and minister the sentence of God by their own hands, they sin anew: every such demand or act of dominion is iniquity and injustice; it is an act of an incompetent power; and, therefore, under pain of a new sin, they must not act under it.

9. (2.) A man can inflict punishment upon himself. Thus Zaccheus, in expiation of his sins, offered half his goods to the poor, and restitution fourfold; which was more than he did need; for if his confession and restitution were spontaneous, he was tied only to the principal, and the superaddition of a fifth part, as appears above. But he chose the punishment, even so much as the judge himself could have inflicted. Thus we read of a bishop in the primitive ages of the church, who, "quia semel tactu fœmineo sorduerat,"

"because he had once fallen into uncleanness," shut himself up in a voluntary prison for nine years together: and many we read of, who, out of the spirit of penance, lived lives of great austerity, using rudenesses to their bodies,—by the pain of their bodies to expiate the sin of their souls. Now whatsoever any man hath power to do to himself, that the law hath power to command him; supposing a reason or a necessity in the law proportionably great to the injunction, and to be of itself a sufficient cause of the suffering. It is true a man may do it to himself to please his humour, or for vainglory, or out of melancholy. I do not say he does well in so doing; but that he hath power to do it, without doing injury to any one: and if he does it to himself without cause, or without sufficient cause, he does no wrong; he does no more than he hath power to do, always provided he keeps within the limits of the sixth commandment. Now although the law pretends not to this power of doing it without reason, because all the power of the law is ἐν τῷ πρὸς τὶ "in relation to others," in commutative and distributive justice, and public and private charities: yet the same authority, which any man hath over himself in order to private ends, the law hath over him in order to the public, because he is a part of the public, and his own power over himself is in the public, as every particular is in the universal. Now the law hath a greater power than the man; for a man hath not power over his own life, which the law hath; so that whatever a man alone can do, that the law can command him to do (except it be in such things, which are wholly by God left in a man's power, and are subjected to no laws of man, and commanded by no law of God; as in the matter of single life, and other counsels evangelical): the same things, I say, though not for the same reasons. If therefore the man can upon himself inflict an evil, which he hath deserved,—the law can compel him, that is, she hath competent authority to do it: and then he is bound in conscience.

10. (3.) In matters favourable, and yet of great interest, we find, that there are many events by the sentence of the law without the sentence of a judge. Thus the right of primogeniture is sufficient, ordinarily, to enter upon the inheritance without a solemn decree of court: and if we consider the reason of this, it will be of equal force in the present in-

quiry. For when matters are notorious, and the people willing, and it is every man's case, and there is a great necessity, and public utility, it is sufficient, when the rule is set; every man knows his part, and his way, and judges are not necessary. But when men are to blame, and there are intrigues in causes, and men will snatch at what is none of their own, and they will not understand their duty, nor judge righteous judgments in things concerning themselves and their neighbours; it is necessary that there be judges and advocates and all the inferior ministers of laws, that where the law is intricate, and men cannot judge and discern aright, or when they are interested and will not, the law may be interpreted, and their duty explained, and every man righted that otherwise would be wronged. The sentence of the judge is but accidentally necessary: for the law saying that the eldest son is heir to an intestate father, the case is plain, and who is the eldest son is notorious,—and he is willing enough to enter upon the inheritance; and therefore, besides the law in this case, there needs no sentence of the judge. Now the law is as plain in the condemnation of some crimes, and the assignation of some punishments. But because men are not willing to enter into punishment, and they are not tied publicly to accuse themselves, therefore there are judges to give sentence, and executioners appointed. And this is well enough in some cases: but because there are some cases, in which it is necessary that the laws be obeyed in private as well as in public, and yet without penalties a law is but a dead hand and a broken cord; the law annexes punishments, but is forced to trust the sinning hand to be the smiter, because the private action cannot be publicly punished, because not brought before the judge.

11. (4.) Besides this, there are some actions of so evil effect as to the public, that for detestation's sake they are to be condemned as soon as done, hated as soon as named, strangled as soon as born: and when by such a sentence the act is represented so foul, the man stands more ready for repentance, and himself is made the instrument. It is like a plain case, in which any man may be allowed to be a judge; for modesty's sake, and for humanity every man will condemn some sins, even though themselves be the guilty persons. However, the law takes the wisest course to give a universal

sentence, that as the man is αὐτοκατήγορος, so he may be αὐτοκατάκριτος, 'self-accused,' and 'self-condemned;' and not to expect the contingent discovery, and the long deferred solemnities of law. "Some sins go before unto judgment," says the Apostle, "and some follow after:" that is, some are condemned 'ipso jure' by the law, and the man does 'ipso facto' incur the penalty; others stay for the sentence of the judge.

12. (5.) In the court of conscience, every man is his own accuser, and his own executioner; and every penitent man is a judge upon himself: God trusts man with the infliction of punishments and hard sentences upon himself for sin; only if man fails, God will judge him to worse purposes; and so does the law. And as the impenitent people favour themselves to their own harm, for they sin against God even in their very forbearing to punish and to kill the sin; so do the impenitent disobey the law by not being their own executioners of wrath: but in both cases the conscience is obliged.

The thing therefore is just, and reasonable, and useful.

13. Now for the reducing of this to practice, and stating the cases of conscience for the subject, as I have already done for the lawgiver, I am to show,

1. In what cases the conscience of the subjects can be bound to inflict penalties upon themselves without the sentence of the judge.

2. By what signs we shall know, when the law does intend so to bind; that is, when the sentence is given by the law, so that the sinner is 'ipso facto' liable to punishment, and must voluntarily undergo it.

In what Cases, the Criminal is to be his own Executioner.

14. (1.) When, to the execution of the punishment appointed by the law, there is no action required on the part of the guilty person, the conscience is bound to submit to that sentence, and by a voluntary or willing submission verify the sentence; such as are, excommunication, suspension, irregularity, and the like. Thus if irregularity be 'ipso facto' incurred, the offending person is bound in conscience not to accept a benefice or execute an office, to which, by that censure, he is made unable and unapt. If a law be made, that whoever is a common swearer, shall be 'ipso facto' in-

famous, he that is guilty, is bound in conscience not to offer testimony in a cause of law; but to be his own judge and executioner of that sentence. But this is not true in all cases, but with the provision of the following measures.

15. (2.) If the law imposes a penalty to be incurred 'ipso facto,' yet if the penalty be moderate, equal, and tolerable, the conscience is obliged to a voluntary susception of it, before the sentence of the judge, although the sentence be not privative, but executive; that is, though there be something to be acted by the guilty person upon himself. Thus if excommunication be incurred 'ipso facto,' he that is guilty of the fact deserving it, and is fallen into the sentence, is not only bound to submit to those estrangements and separations, those alienations of society and avoidings, which he finds from the duty of others,—but if, by chance, he be in a stranger-place, where they know not of it, and begin divine service, he is bound in conscience to go away, to resign an ecclesiastical benefice, if he be possessed of one, and other things of the same necessity, for the verification of the sentence: and the reason is, because every act of communion or office is, in his case, a rebelling against the sentence of the law, the verification of which depends upon himself as much as upon others: for every such person is like a man that hath the plague,—all men that know it, avoid him; but because all men do not know it, he is bound in conscience to avoid them, and in no case to run into their company, whether they know him or know him not. Now because this does not oblige to all sorts of active executions of the sentence, the following measures are the limit of it.

16. (3.) The law does not oblige the guilty person to such active executions of the sentence, which are merely and entirely active; that is, which do not include a negative, or something contrary to the passive obedience. Thus if a traitor be sentenced to a confiscation of goods, and this be 'ipso jure' incurred; the guilty person is not tied to carry all his goods to the public treasure, but he is tied not to change, not to diminish, not to alien, not to use them otherwise than the law permits; because if he do any thing of these, he does something against the sentence of law, which, in his case, is rebellion and disobedience. He may be truly passive and perfectly obedient to the sentence of the

law, without hiring porters or waggons to carry his goods away; and the custom of the law requires it not: but if he does alien his goods, he hath not so much as the passive obedience.

17. (4.) In punishments corporal, the laws do not proceed without the sentence of the judge; except it be in the court of conscience, which is voluntary and by choice. Thus no man is 'ipso jure' condemned to be hanged, or to be whipped, and no man is, by any law, bound to inflict such punishments on himself; because there is a natural abhorrency in such actions, and it is that odious part of the law, which is so much against nature and natural affection, that none but the vilest part of mankind are put to do it unto others: and therefore, because the laws do enjoin no such thing, the inquiry is needless, whether in such cases the conscience be obliged. But this is wholly depending upon the manners of men, and the present humours of the world. Amongst some nations it was otherwise; and no question but it might be so, if by circumstances and the accidents of opinion and the conversation of the world the thing were not made intolerable. Plutarch[k] tells of Teribazus, that being arrested by the officers of death he resisted with such a bravery, as he used against the king's enemies; but being told that they were sent by the king, he presently reached forth his hands and offered them to the lictors to be bound. But this was no great matter, it was necessary; and he that is condemned to die by a just authority, owes to it at least so much that he resist not, that he go to death when he is called, that he lie down under the axe when he is commanded: so did Stilico at the command of his son-in-law, Honorius the emperor. It was more which was done by the Lithuanians under Vitoldus their king, who was brother to that Uladislaus famous for a memorable battle against the Turks; he commanded many to death, and they died without the hangman's hand, being the executioners of their king's laws upon themselves. And Sabellicus[l] tells, that the Ethiopians, when their king sent a messenger with the ensigns of death, they presently went home and died by their own hands. And this was accounted among them so sacred an obligation, that when a young timorous person thought to have fled, his mo-

[k] De Superstitione. [l] Lib. 2. Enn. 1.

ther took her girdle and strangled him, lest he should dishonour his family by disobeying the law out of fear of death. This was brave; but some men cannot be willing to die, and few can well suffer it: but therefore it is hard, that any one should be compelled to do it to himself. Therefore the laws of Christendom are wise and gentle; and excepting that of the Lithuanian prince, who is reported to have been a tyrant, it is not enjoined by any prince or any law amongst us, that I know of. But this is not only true in active executions, but in the passive penalties, which are very violent and extreme. Thus if a man were justly condemned to be immured and starved to death, he is tied to submit to it, as not to rebel, and by violence quit himself: but he is not tied so much as to the privative execution; that is, he is not bound to abstain from meat, if it be brought to him. Thus we find in story, of the pious Persian lady, who, to her father condemned to death by starving, gave her breasts to suck, and preserved his life; and he not at all made infamous by not dying, but had his life given as the reward of his daughter's piety.

18. (5.) Condemned persons are not tied to put themselves to death, or cut off a member with their own hands, or do execution, by doing any action, or abstaining from doing any thing, when such doing or abstaining is the sufficient, or the principal, or the immediate killing or dismembering. But to the under ministries they are tied, which cannot be done without them; that is, they are tied so far to act, as without which they cannot suffer: and this is to be extended even to the principal and immediate act of killing, if they only ordinarily can do it. Thus a condemned criminal is bound to go to execution, or suffer himself quietly to be carried; to lie down under the hangman's axe, to ascend the ladder; and it is a great indecency of dying, and directly criminal, which is frequent enough in France, and is reported of Marshal Biron, to fight with the executioner, to snatch the weapons from the soldiers, to force the officers to kill him, as a wild bull or lion is killed. But a condemned man is also tied to drink his poison, if that be appointed him by law; for though this be the immediate act of killing, to which ordinarily condemned persons are not obliged, yet because it cannot well be done by an executioner without his consent, or extreme violence, the guilty person is bound to

drink it: the reason is, because the law must be obeyed, and at least a passive obedience is to be given to the severest of her sentences; and the passiveness of a man is to be distinguished from the passiveness of a beast; that which cannot be avoided, must be borne well: and therefore if a man be banished, he must go away, and not be dragged; and he that so resists the laws, that he forces her ministers to hale the criminal to death like an unwilling swine, deserves the burial of an ass or dog. But this always must suppose the laws to be just, and the power competent; for else the suffering person may consider, whether the quiet submission to it be not a verification of the sentence, or of the authority, though even in such cases it is not the hangman that is unjust, or to be resisted, but the judge or the laws; and therefore they are to be protested or declared against; for that is all which is left to be done by the oppressed person.

19. (6.) When the punishments are principally or merely medicinal, the conscience is bound to a voluntary execution of the sentence, if the law requires it. For then the laws are precepts of institution and discipline; and they are intended as mercies to the man, as well as to the public; and of mercy, every man may very well be minister. It hath in it no indecency for a man to mingle his own severe potion, or let himself blood, or lance an ulcer, and there is no more in the medicinal punishments of the law. Thus the laws can command us to fast, to wear sackcloth upon the bare skin, to go barefoot, to watch all night upon a solemnity of expiation, to inflict disciplines, and the like; and for these we are to expect no other process but the sentence of the law, no judge but our consciences, no executioners but ourselves. This relies upon the former reasons, and the mere authority of the law, and the nature of the thing free from all objections.

20. (7.) All sentences of law, which declare a fact to be void, or a charge and expenses to be lost, or a privilege to cease, are presently obligatory to the conscience. "Irrita prorsus ex nunc, et vacua nunciamus," is usual in the style of laws: "et sit ipso jure irritum et inane; et careat omni robore firmitatis, non obtineat vires;" "Let it be of no force, let it not prevail, let it be void, let him want all privilege, all honour, dominion, action, or profit."—For these and the like words, say the logicians, have the force of a universal sign, and do distribute the noun that is governed by the verb; so

they speak; that is, it signifies and hath force in every particular, and in every period of time; 'let it want force,' that is, 'let it want all force,' that is, 'be of no use at all;' "careat" is as much as "omnino, penitus, prorsus careat."

21. (8.) But these particulars suffer one limitation. A man is not bound to suffer the penalty of the law before the sentence of the judge, though the fact be sentenced and condemned 'ipso jure,' if the fact be made public, and brought before the judge: because he, taking it into his cognizance, revokes the former obligation, by imposing a new; by changing the method of the law, and lessening expectation. Thus by the laws ecclesiastical, which were anciently of force in England, and are not yet repealed, "notorius percussor clerici," "he that openly or manifestly strikes a bishop or priest," is, 'ipso jure,' excommunicate; and to this sentence the guilty person is bound to submit: but in case he be brought before the criminal judge, and there be solemn process formed, he may suspend his obedience to the law, because the judge calls him to attend to the sentence of a man.

22. (9.) But yet this is also so to be understood to be true in all, "exceptis sententiis irritantibus," "excepting sentences of the declaring actions to be null, or privileges void." For in these cases, though the judge do take into his cognizance the particular fault, and give a declarative sentence of such a nullity and evacuation, yet the action does not begin to be null, or the privilege to cease, from the sentence of the judge, but from the doing of the fault, and sentence of the law: and therefore if a question arises, and the judge declare in it, the nullity is only confirmed by the judge, but it was so by the sentence of the law. Now the reason of the difference in the case of nullities and evacuations from other cases, is, because that which is not, hath no effect, and can produce no action; and as a citizen told the people of Athens, who, upon the first news of Alexander's death, would have rebelled, "Stay" (says he), "make no haste; for if he be dead to-day, he will be dead to-morrow:"—so if the judge declare that such an action was null, it was null all the way; if he says it be dead now as a punishment of the fault, it was dead as soon as the fault was done; for it died by the hand of the law, not by the hand of the judge. In other things the limitation is to be observed.

23. (10.) And this also holds, in case that it be upon any

account necessary that the judge give a declarative sentence: for sometimes in regard of others, the judge must declare such a person excommunicate, or deprived, or silenced, or infamous, that they also may avoid him, or do their respective duties. But although the guilty person be in conscience regularly obliged before that declarative sentence, it being nothing but a publication of what was in being before; yet it being a favourable case, and the law not loving extremities and rigours of animadversion, it is to be presumed that the law gives leave to the guilty person to stay execution till publication. Because no man is bound directly to defame himself; which he will hazard to do, if he executes the sentence upon himself, before the judge calls others into testimony and observation of the sentence. But though the sentence may upon favourable conditions be retarded, it must at no hand be evacuated. Therefore if the judge meddle not, the man is left to the sentence of the law. And it is in all these particulars to be remembered, that "the law is a mute judge, and the judge is a speaking law." It is the saying of Cicero[m]; and from thence is to be concluded, that when the judge hath spoken, he hath said no new thing, and he hath no new authority; and therefore if the law hath clearly spoken before, she hath as much authority to bind where she intends to bind, as if she speaks by her judges.

24. These considerations and this whole question are of great use in order to some parts of repentance, and particularly of restitution. For if a law be made, that if a clerk, within twelve months after the collation of a parish-church, be not ordained a priest, he shall 'ipso jure' forfeit his ecclesiastical benefice; if he does not submit to the sentence, and recede from his parish, he is tied in conscience to make restitution of all the after-profits, which he receives or consumes. So that it hath real effect upon consciences, and the material occurrences of men.

25. But then for the reducing of it to practice, I am next to account by what signs we shall know when it is 'sententia lata à jure,' when it is 'lata ab homine;' when it is 'lata,' and when 'ferenda;' that is, when the criminal is to attend the sentence of the judge, and the solemnities of law and

[m] "Vere dicitur, magistratum legem esse loquentem; legem autem, mutum magistratum." De Leg. 3. c. 1. §. 2. Goertentz, page 217. (J. R. P.)

execution by the appointed officer; and when he is to do it himself, by his own act or positive submission upon the sentence of the law.

Signs by which we may judge, when the Criminal is condemned 'ipso facto.'

26. The surest measures are these. Those laws contain 'sententiam latam,' and oblige the criminal to a spontaneous susception of the punishment, when (1.) the law expressly affirms, that the guilty person does 'ipso facto' incur the sentence without further process, or sentence of the judge.

(2.) When the law says, that the transgressor shall be bound in conscience to pay the fine, or suffer the punishment contained in the sanction of the law: which thing because it is not usual in laws, lest I should seem to speak this to no purpose, I give an example out of the Spanish laws: for I find, in the laws of the kingdom of Castile[n], divers instances to this purpose; particularly, after the assignation of the secretary's fee, appointing how much he may receive for the instruments of grace which he makes, it is added, "Jurent, quod observabunt ea, quæ in præcedenti capitulo ordinata sunt; et quod non accipient munera, et quod solvent pœnas, si in eas inciderint, ad quas ex nunc eos condemnamus, ità ut sint obligati in foro conscientiæ ad solvendum eas, absque hoc quod sint ad illas condemnati." And the same also is, a little after[o], decreed concerning judges and public notaries, that they take nothing beyond their allowed fees and salaries: and if they do, they are to pay a certain fine. They are also to swear to observe that ordinance; and in case they do not, that they will pay the fines to which the law does then sentence them,—that they be bound in conscience to do it without any further condemnation by the sentence of any man. Now the reason of this is, because the conscience being intrusted and charged with the penalty, must suppose only the duty and obligation of the man whose conscience is charged. It were foolish to charge the conscience, if the conscience were not then intended to be bound to see to the execution: but that could not be, if the sentence of the judge were to be expected; for that is a work of time, and will be done without troubling the con-

[n] Lib. 2. Ordinat. Regal. tit. 9. lib. 1. [o] Ibid. tit. 15.

science. Therefore the conscience, being made the sheriff or witness with the charge of execution, supposes the whole affair to be his own private duty.

27. (3.) In censures ecclesiastical it hath sometimes been the usage of the legislator to impose a penalty, adding, that 'donec satisfecerit,' until such or such a thing be done, the criminal shall not be absolved: and this also is an indication, that the sentence is made by the law, and is 'ipso facto' incurred by the delinquent, because it leaves a secret tie upon his conscience obliging him to do it; which were needless, if the criminal judge were to be intrusted with it, for he is otherwise sufficiently intrusted with compulsories to secure the executions. Of this nature is that constitution of Innocentius[p], describing the order for an archbishop's visitation of his own, and the diocesses of his suffragan bishops; forbidding severely him or any of his followers to receive a fee, bribe, reward, or present; "qualitercunque offeratur," "under what pretence soever it be offered," lest he be found to seek that which is his own, not that which is of Jesus Christ: adding, "Quod si fuerit contrà præsumptum, recipiens maledictionem incurrat, à qua, nunquam nisi duplum restituat, liberetur;" "He that shall presume to do otherwise, and receive any thing, shall incur a curse, from which he shall never be absolved till he have restored it twofold." This relies upon the former reason.

28. (4.) Panormitan gives this rule, That when a sentence is set down in the law in words of the present or preter tense, it concludes the sentence to be 'ipso facto' incurred; for whatsoever is 'ipso jure' decreed, is 'ipso facto' incurred: and of this decree, the present and past tenses, says the Abbot[q], are sufficient indication; that is, if the words be damnatory, as 'Excommunicamus,' 'Anathemate innodamus,' 'We do deprive him of all rights and offices,' &c.: for if the judge, using the like words, passes a sentence by virtue of those words, so does the law, there being the same reason, the same authority, the same purpose, signified by the same form of words. But if the words be of the present or past time, and yet not immediately damna-

[p] 4. cap. Romana, sect. Procurationes, de Censibus, lib. 6.

[q] Cap. Cæterum, et cap. Nonnulli de Rescriptis. cap. Novit. in fine de his quæ fiunt a Prælato.

tory, they do imply the sentence to be made afterward; as 'decernimus,' 'definivimus,' 'declaramus,' and the like. But if these words signify only ministerially, and not principally, that is, if they be joined with other words in the present or past tense, then they declare the sentence past and 'ipso facto' to be incurred; as "declaramus eum privatum dominio bonorum:" then the case is evident.

29. (5.) Of the same consideration it is, when the sentence of the law is set down with the verb-substantive 'sum,' of what tense soever, unless by a future participle its nature be altered. Thus if a law says, He that is absent from his parish, without just cause to be approved by his bishop, above six months, "est" or "erit infamis," "is" or "shall be infamous;" the sentence is 'ipso jure lata,' inferred by law, and 'ipso facto' incurred; because the verb annexes the punishment to the fact without further process. But if the verb be annexed to a future participle, the case is altered; the sentence is not to be undergone, till the judge have declared it. Now this relies upon the force of the words and the proper grammatical way of speaking, which is the best way of declaring the mind of a man, or the mind of the law; unless where it is confessed that the lawgiver did not intend, or use, to speak properly or by grammar, but by rude custom. This note I have in A. Gellius[r], "Verbum *esse* et *erit*, quando per se sese ponuntur, habent atque retinent tempus suum; quum vero præterito jugantur, vim temporis sui amittunt, et in præteritum contendunt." If these words be not altered, they signify just by themselves; "est" or "erit excommunicatus," or "infamis," signifies the punishment to begin as soon as the fact is done: but "est excommunicandus," that is a future that relates to another time, and stays for the sentence of the judge. But there must be something more to clear this. For if 'erit' be the future tense, why shall it not as well signify 'sententiam ferendam,' as 'est excommunicandus;' since the verb is to be left to his own time, as well as the present tense brought thither by a future participle? Therefore to this I add, that when the verb or participle does signify the action or ministry of some other person beside the law and criminal, then it shows that the declaration of the judge is to be expected; as in "est excommunicandus," that

[r] Lib. 17. cap. 7. Oiselii, p. 938.

is, "he is to be excommunicated," viz. by the sentence of his ordinary judge: but "erit infamis," or "erit excommunicatus," implies no man's action at all, but supposes the thing finished without any more to do; and then comes in the rule of Nigidius in A. Gellius before spoken of. 'Infamis' signifies presently, that is, he shall be so from the doing the crime; and 'excommunicatus' signifies present or past, and therefore by it the future tense shall be altered, and therefore the sentence presently incurred. But concerning this particular, who pleases to be critical and curious in minutes may delight himself by seeing seventy-five fallencies, and alterations of cases by the variety of tenses expressed in words of law, in Tiraquel, in his excellent and large commentaries[s], in the interpretation of the word 'revertatur.' For my own part, I am content to assign such measures as are sure, plain, easy, and intelligible. "Nobit non licet esse tam disertis."

30. (6.) The sentence of the law does presently oblige the conscience, if it be expressed in adverbs of hasty or present time; such as are "confestim, illico, extunc, extemplo," "presently, forthwith, from thenceforward," and the like: for those who appoint the punishment to be incurred without any interval of time, in effect say, that we are not to expect the dull and long-protracted methods of courts and judges, and commissions and citations, and witnesses and adjournments. 'Protinus,' i. e. 'non exspectato judiciorum ordine,' say the lawyers.

Protinus ad regem cursum detorquet Iarban[t].

'Forthwith,' that is, without the longer methods of the court.

Nec mora, continuò matris præcepta facessit[u].

These words and the like have present effect; and therefore do signify a present obligation of conscience. Concerning the signification of which and the like words it is hard to say, whether we are to be guided by the lawyers or by the grammarians. The lawyers are the best witnesses of sentences, and precedents, and the usages and the customs of laws; and therefore can best tell how the laws are said to

[s] In lib. Si unquam, cap. de Revocandis Donationibus.
[t] Virg. Æn. iv. 196. [u] iv. Georgic, 548.

bind, and what sentences they are said to contain: and because by them we are to be judged in public, if questions do arise, from them also we may take our rule in private. This seems reasonable: but on the other side, I find that lawyers themselves say otherwise; and I have seen Tiraquel much blamed, for quoting Bartholus, Baldus, and Salicetus [w] for the signification of the word 'mox,' 'by and by,' which is of use in this present rule: because though they were great lawyers, yet they were no good grammarians; and therefore that in these cases, Erasmus and Calepine, Valla and Linacre, Cicero and Terence, Priscian and Donatus, were the most competent judges. There is something on both sides, which is to weigh down each other, according as some other consideration shall determine. But therefore, as to the case of conscience, I shall give a better and surer rule than either one or other, or both: and that is,—

31. (7.) This being in matters of load and burden, by the consent of all men, the conscience and the guilty person are to be favoured as much as there can be cause for. Therefore whenever there is a dispute, whether the sentence of the law must be incurred presently, or that the sentence of the judge is to be expected; the presumption is always to be for ease, and for liberty, and favourable senses. Burdens are not to be imposed upon consciences without great evidence, and great necessity. If the lawyers differ in their opinions concerning the sentence, whether it be already made, or is to be made by the judge, let them first agree, and then let the conscience do as she sees reason. Thus if the word 'mox,' 'by and by,' be used in a sentence of law, because we find that in some very good authors it signifies with some interval of time (as in Cicero, "Discedo parumper à somniis: ad quæ mox revertar [x];" and "Præteriit villam meam Curio, jussitque mihi nunciari se mox venturum [y]"): therefore we may make use of it to our advantage, and suppose the conscience of a delinquent at liberty from a spontaneous execution of a sentence of law, if for that sentence he have no other sign, but that the word 'mox' is used in the law. "In pœnis benignior est interpretatio facienda," "In matters of punishment we are to take the easier part;" and that is, to stay

[w] Alph. à Castro lib. 2. de Leg. Pœn. cap. 7.
[x] De Divin. i. c. 23. Davis. Rath. pag. 61.
[y] Ad Attic. x. 4.

from being punished as long as we can : and in proportion to this, Panormitan [z] gives this rule ; " When the words of the law signify the time past, or the time to come, we are to understand it in the more favourable sense; and that it includes the sentence of the judge, before which the criminal is not obliged. And to this very purpose the words of infinite and indefinite signification are to be expounded : and this answers many cases of conscience, and brings peace in more; and the thing being reasonable, peaceful, and consonant to the common opinion of the lawyers, ought to pass for a just conclusion and determination of conscience.

32. (8.) After all, as there is ease to the criminal, so there must be care of the law ; and therefore when a law imposes a punishment which would prove invalid, to no purpose and of no effect, unless it be of present force upon the committing of fact,—it is to be concluded, the law intends it for a ' sententia lata à jure,' that it presently obliges the conscience of the guilty person. The reason is, because it cannot be supposed that the law should do a thing to no purpose, and therefore must intend so to oblige as that the sin be punished. If therefore to expect the sentence of the judge would wholly evacuate the penalty, or make it insufficient to do the purpose and intention of the law ; the sentence of the law must be suffered by the guilty person without the judge. And this is true, however the words of law be used, whether in the past, present, or future time, whether simply or by reduplication, whether imperatively or infinitely: such are the penalties of infamy, irregularity, nullity of actions or contracts, especially if they be of such contracts, which if they once prove valid, are so for ever, as in the contract of marriage. And therefore if a law be made that a man shall not marry her, whom, in her husband's lifetime, he had polluted : this must be supposed to be meant of nullifying the contract before it is consummate ; that is, it is a sentence which the criminal must execute upon himself : for if he does not, but ' de facto' marries the adulteress, and consummates the marriage, it will be too late to complain to the judge ; for he cannot annul the contract afterward.

[z] Cap. in Pœnis de Reg. Jur. lib. 6.

RULE III.

Penalties imposed by the Judge must be suffered and submitted to; but may not, after such Sentence, be inflicted by the Hands of the condemned.

1. THE first part of this rule hath in it but little difficulty; for there is only in it this variety: In all punishments that are tolerable, that is, all but death, dismembering, or intolerable and extremely disgraceful scourgings, and grievous and sickly imprisonments, we owe not only obedience to the laws, but reverence and honour; because whatsoever is less than these, may, without sin, and without indecency, and without great violations of our natural love and rights, be inflicted and suffered.

2. But the other evils are such, as are intolerable in civil and natural account; and every creature declines death, and the addresses and preparations to it, with so much earnestness, that it would be very unnatural and inhuman not to allow to condemned persons a civil and moral power of hating and declining death, and avoiding it in all means of natural capacity and opportunity. A man may, if he can, redeem his life with money, but he must not corrupt justice; a man may run from prison if he can, but to do it he must not kill the jailer; he may escape death, but he must not fight with the ministers of justice; he may run away, but he must not break his word; that is, he may do what is in his natural capacity to avoid these violences and extremities of nature, but nothing that is against a moral duty. "Non peccat quisquam, cum evitat supplicium, sed cum facit aliquid dignum supplicio;" "He that avoids his punishment, sins not, provided that in so doing he act nothing else worthy of punishment:" so St. Austin [a].

3. This relies also upon a tacit or implicit permission of law; for in sentences given by judges, and to be executed by the ministers of law, the condemned person is not commanded, nor yet trusted with the execution, and it is wholly committed to ministers of purpose: and therefore the law supposes the condemned person infinitely unwilling, and lays bars, restraints, guards, and observators, upon him; from all which

[a] Lib. de Mendac. cap. 13.

if he can escape, he hath done no more than what the lawgiver supposed he was willing to do, and from which he did not restrain him by laws, but by force. But if to fly from prison, or to decline any other sentence, be expressly forbidden in the law, or if it be against his promise, or if a distinct penalty be annexed to such escapings, then it is plain that the law intends to oblige the conscience, for the law cannot punish what is no sin; it is in this case a transgression of the law, and therefore not lawful. But because the law hath no punishment greater than death, it cannot but be lawful for a condemned man to escape from prison if he can, because the law hath no punishment to establish a law against flying from prison after the sentence of death. And if it be said, that if a prisoner who flies, be taken, he hath more irons and more guards upon him, and worse usage in the prison; that is matter of caution, not punishment, at least not of law: for as for the jailer's spite and anger, his cruelty and revenge, himself alone is to give accounts.

4. But now for the other part of the rule, there is some more difficulty; which is caused by the great example of some great and little persons [b], who to prevent a death by the hand of their enemies, with the additions of shame and torment, have laid violent hands upon themselves. So did Zeno [c] and Chrysippus, Cleanthes and Empedocles, Euphrates the philosopher, and Demosthenes, Cato Uticensis, and Porcius Latro, Aristarchus and Anaxagoras, Cornelius Rufus and Silius Italicus. The Indians esteemed it the most glorious way of dying, as we find in Strabo [d], Olympiodorus [e], and Porphyry [f]; and Eusebius tells, that most of the Germans did use to hang themselves. And, amongst the Romans, they that out of shame of being in debt, or impatience of grief, killed themselves, might make their wills, and after death they stood; "manebant testamenta, pretium festinandi," saith Tacitus, that was "the price of their making haste. Plato [g] discoursing of this question, said, Οὐ μέντοι ἴσως βιάσεται αὐτόν· οὐ γὰρ φασὶ θεμιτὸν εἶναι, "Peradventure a man must not do violence to himself, for they say it is not lawful." Upon this Olympiodorus discoursing on these words, reckons five cases

[b] Vide Diogen. Laert. in Zenon.—Alexander Aphrodis. in 2. de Anima.—Lucian. in Macrob.—Galen. 5. de Loc. Affect.—Plutarch. in Pericle.—Suidas.—Plin. lib. 1. ep. 12. [c] Lib. 15. [d] In Phædon. Platon.
[e] Περὶ φιλοψυχ. 4. [f] Annal. 6. [g] Phæd. Fischer, c. 5. p. 252.

in which the Stoics held it lawful to kill themselves. 1. For public good; 2. For private necessity, to avoid a tyrant's snare; 3. In cases of natural madness; 4. When the body is intolerably afflicted; 5. and lastly, In extreme poverty. And the Greeks commended a Pythagorean woman, who being asked why she and her sect did not eat beans, she said, she would rather eat them than tell: but being commanded by a tyrant to eat them, she said, she would rather tell than eat them: but in fine she cut out her tongue, because she would neither taste nor tell. Thus Seneca[h] tells of a prisoner, that being to be exposed to beasts in the theatre, he broke his neck in the spondyls of the wheel upon which he was drawn to the spectacles; and of another that died by a pertinacious holding of his breath. But that of Sampson, and Saul, and Razis, are also brought into example; and are alleged to prove, that a man may, a few hours or days, hasten his death, if, by so doing, he takes the lighter part. St. Chrysostom[i] tells of St. Pelagia: "Pelagia virgo, quindecim annos nata, sponte sibi necem maturavit: parata quidem erat ad cruciatus tormentaque et omne suppliciorum genus perferendum: sed metuebat tamen ne virginitatis coronam perderet:" "Being a virgin of fifteen years of age, of her own accord she hastened death unto herself: she was indeed ready to have suffered all sorts of most exquisite torments, but she was not willing to lose the crown of her virginity." Upon which fact of hers, he thus discourses: "Hence you may perceive, that the lust of the wicked hangmen struck fear into Pelagia, and therefore from their injurious lust the maiden removed and snatched herself: for if she might have kept the crown of her virginity, and receive the crown of martyrdom besides, she would not have refused the judgment-seat; but because it was altogether necessary to lose the one of them, she had a just cause, by her own voluntary death, to prevent so great an injury."—And St. Ambrose[k] writing to his sister Marcellina, expressly commends those virgin-martyrs, who, to prevent their ravishments, did hasten their death by voluntary precipices, or drowning; and particularly allows the fact of Pelagia. To which I add also, St. Jerome[l], who,

[h] Epist. 70. 20. Ruhkopf, vol. 2. pag. 331.
[i] Vide Front. Ducæum tom. 1. S. Chrysost. n. 628.
[k] Lib. 3. de Virgin. [l] In cap. 1. Jonæ, in hæc verba, Mittite me in mare.

though he gives express testimony to the rule, yet he excepts the case of chastity; "Non est nostrum mortem arripere, sed illatam ab aliis libenter excipere: unde et in persecutionibus non licet propriâ manu, absque eo ubi castitas periclitatur, sed percutienti colla submittere;" "We must not snatch death with our own hands, but willingly receive it, when it is imposed by others: and therefore, in persecutions we must not die by our own hands, unless it be when our chastity is in danger:

——— heu quanto melius, vel cæde peractâ,
Parcere Romano potuit fortuna pudori[m].

"In other cases we must lay down our necks under him that strikes." And this seems reasonable, because, as the emperor said[n], "Viris bonis metum istum [pudicitiæ amittendæ] majorem esse debere quam ipsius mortis;" "He that fears to lose his chastity, fears more justly than he that fears to lose his life."

5. To this I answer, that the case is indeed very hard; and every one in this is apt not only to excuse, but to magnify, the great and glorious minds of those, who, to preserve their honour, despised their life. And therefore when the Muscovites broke into Livonia, and in their sacking of the city of Wenden, used all manner of cruelties and barbarous immanities to men and women, filling all the streets and houses with blood and lust; a great many of the citizens running to the castle, blew up themselves with their wives and children, to prevent those horrors and shames of lust which they abhorred more than death. Now Laurentius Muller[o], who tells the story, says, that although the preachers of Riga did in their pulpits condemn this act of the women and maidens; yet the other Livonians and the Muscovites themselves, did not only account it sad and pitiable, but excellent and admirable. And so the author of the books of Maccabees commends the fact of Razis as glorious and great: but yet this does not conclude it lawful; for it is upon no account lawful for a man of his own accord to kill himself.

6. St. Austin[p] denies to him the praise of magnanimity; "Magis enim mens infirma deprehenditur, quæ ferre non

[m] Lucan. ii. 517. Oudendorp, p. 152.
[n] Sect. quod si ff. quod Metus Causa. [o] Histor. Septentr.
[p] Exposit. in Johan. tract. 52. et lib. 19. de Civit. Dei.

potest duram corporis sui sanitatem, vel stultam vulgi opinionem;" "It is not greatness, but littleness of spirit, it is either impatience or pride that makes a man kill himself to avoid trouble to his body, or dishonour to his name amongst fools." I suppose he had it from Josephus [q], who excellently and earnestly proves it to be cowardice to lay violent hands upon ourselves; and both of them might have it from Aristotle [s], who will not allow it so much as to be brave and magnanimous for a man to kill himself for the avoiding of any evil: Τὸ δ' ἀποθνήσκειν, φεύγοντα πενίαν ἢ ἔρωτα ἤ τι λυπηρὸν, οὐκ ἀνδρείου, ἀλλὰ μᾶλλον δειλοῦ, "To die that we may avoid poverty, the torments of love, or any evil affliction whatsoever, is not the part of a valiant man, but of a coward."

Hostem cum fugeret, se Fannius ipse peremit.
Hic, rogo, non furor est, ne moriare, mori [t]?

Fannius being pursued by the enemy, killed himself for fear. It may be cowardice to die in some cases; and to die to preserve our chastity, is to sin to avoid a sin, like Fannius's case of fear,

——— mortisque timorem
Morte fugant; ultroque vocant venientia fata [u]:

or as St. Chrysostom's expression is; Πρὸ τοῦ ναναγίου ναναγίῳ περιβάλλειν σεαυτὸν, καὶ πρὶν ἢ δέξασθαι πληγὴν ἀποθνήσκειν τῷ δέει· "To die before the wound is given, and to leap into the sea for fear of a shipwreck:" it is to do violence to our body to preserve it chaste, to burn a temple to prevent its being profaned. And therefore it is no just excuse to say the virgin-martyrs did it, lest they should lose their crown of virginity: for though I shall not urge the example of Abraham, who rather ventured his wife's chastity, than his own life; yet this I say, that she that loses it by violence, is never the less a virgin before God, but much more a martyr. But then if any one can suppose it fit to be objected, that if they lost their material virginity, there was danger, lest while they were abused, they should also be tempted, and consent: I suppose it will be sufficient to answer, that a certain sin is not to be done to avoid an uncertain; and yet further, that

[q] Bell. Judaic. lib. 3. cap. 25.
[s] Ethic. ii. 7. Wilkinson, p. 111.
[t] Martial. ii. 80. Mattaire, p. 47.
[u] Metamorph. vii. 604. Mitscherlich, vol. 1. p. 507.

this could not be considerable in the case of the martyrs: for besides that it is supposed that they were infinitely fortified by the grace of God, their austere lives and holy habits, the rare discourses of their spiritual guides, their expectations of particular crowns, the great reputation and honour of virgins, and the spirit of chastity, which then very much prevailed; besides all this, I say, they had then (particularly St. Pelagia, and the virgins which St. Ambrose speaks of) the sentence of death not only within them, but upon them; and the immediate torments which they expected after ravishment, were a very competent mortification for any such fears. And therefore, as we should call it cowardice or impatience for a man to kill himself, that he may die an easy death, and prevent the hangman's more cruel hands; so it is a foolish and unreasonable caution, and a distrust of the sufficiency of the divine grace, to rush violently to death, lest we should be dishonoured or tempted in another instance: and it is not bravery, but want of courage; *μαλακία γὰρ τὸ φεύγειν τὰ ἐπίπονα*, it is "softness and effeminacy by death to fly the labours" of a sadder accident, says Aristotle[x]. But be it this or not, it is certain it is something as bad.

7. (l.) It is directly against the commandment: "And it is not for nothing that in all the canonical books we find no precept, no permission from God," saith St. Austin[y], "ut vel adipiscendæ ipsius immortalitatis, vel ullius carendi cavendique mali causa, nobismet ipsis necem inferamus. Nam et prohibitos nos esse intelligendum est, ubi lex ait, non occides:" "that either for the gaining of immortality itself, or for the avoiding of any evil, we should kill ourselves." —It is something like this which Aristotle says[z]: *Τὰ μὲν γάρ ἐστι τῶν δικαίων, τὰ κατὰ πᾶσαν ἀρετὴν ὑπὸ τοῦ νόμου τεταγμένα, οἷον οὐ κελεύει ἑαυτὸν ἀποκτενεῖν ὁ νόμος· ἃ δὲ μὴ κελεύει, ἀπαγορεύει.* "Those things which the decrees have appointed agreeable to virtue, those are to go for laws; as for example, The law does not command any man to kill himself, and because the law does not command, therefore it does forbid:" that is, because the law commands no man (though he be condemned) to kill himself, therefore the law forbids him to do it to himself; the law will not make a man executioner

[x] Ubi suprá. [y] Lib. 1. cap. 20. de Civit. Dei.
[z] Eth. Nic. lib. 6. cap. 11. Wilkinson, page 224.

even of her sentence, therefore she permits him not to execute his own. But St. Austin adds beyond this, "For then we were forbidden to do it, when God said, 'Thou shalt do no murder.'" And therefore it is observable, that although God said, 'Thou shalt not bear false witness against thy neighbour;' yet he did not in this commandment add that clause of 'contra proximum' nor in that of adultery; intimating, that we must neither pollute nor destroy our own bodies, any more than the body of our neighbour.

8. (2.) To prevent the hand of justice or of tyranny in striking, is sometimes to prevent the hand of God in saving, and is an act of desperation against the hopes of a good man, and the goodness of God: for help may come in the interval. Caius the emperor commanded some to be put to death, whom he presently after infinitely wished to have been alive; the haste of the executioners destroyed the men more than the rage of the prince: and it is all one if the man himself be hasty. And Pontanus tells, that when Angelus Ronconius was accused to Pope Nicolas V. that he had given way to Aversus whom the Pope's forces had enclosed, and gave leave to him to pass over the Tiber, the Pope commanded him to be proceeded against according to law; but when he rose in the morning, and told his ministers he would more maturely consider the cause of Ronconius, they told him he was that very night put to death, which caused extreme grief to the Pope. Concerning a man's life all delay is little enough; and therefore for himself to hasten it is against prudence, and hope, and charity.

9. (3.) The argument of Lactantius [a] is very good: "Si homicida nefarius est, qui hominis extinctor est, eidem sceleri obstrictus est qui se necat;" "If he that kills another is a wicked homicide, so also is he that kills himself."—Nay he is worse, said St. Chrysostom [b]. And this besides that it relies upon the unlimited, indefinite commandment, which must be understood universally but where God hath expressly set it limits; and though he hath given leave to public magistrates to do it, who therefore are not under that commandment,—yet because he hath not given leave to ourselves to do it to ourselves, therefore we are under the commandment: besides this, I say, it relies also upon this rea-

[a] Lib. 3. Instit. cap. 28. [b] In Epist. ad Gal. cap. i.

son, that our love to ourselves is the measure of charity to our neighbours; and if we must not kill our neighbour because we must love him as ourself; therefore neither must we kill ourselves; for then we might also kill our neighbour, the reason and the measure, the standard and the proportion, being taken away.

10. (4.) To put ourselves to death without the command of God or his lieutenant, is impiety and rebellion against God; it is a desertion of our military station, and a violation of the proprietiés and peculiar rights of God, who only hath power over our lives, and gives it to whom he pleases: and to this purpose Cicero [c] commends that saying of Pythagoras; "Nequis injussu imperatoris, id est, Dei, de præsidio et statione vitæ decedat;" God is our general, and he hath commanded to us our abode and station, which, till he call us off, must not be deserted: and the same doctrine he recites out of Plato [d]: "Piis omnibus retinendum esse animum in custodia corporis; nec injussu ejus, à quo ille est vobis datus, ex hominum vita migrandum esse, ne munus humanum assignatum à Deo defugisse videamur." The reason is very good: "God gave us our soul and fixed it in the prison of the body, tying it there to a certain portion of work, and therefore we must not without his leave go forth, lest we run from our work that God hath commanded us." Josephus says, it is like a servant running away from his master's service: "Et servos quidem fugientes ulcisci justum creditur, quamvis nequam dominos fugerint; ipsi vero fugientes Deum et optimum Deum, impie facere non videbimur?" "If servants fly from their cruel masters, they are justly punished; shall it not, be accounted impiety to fly from our good God, our most gracious Master?"—And therefore Brutus condemned the fact of Cato, his father-in-law: Ὡς οὐχ ὅσιον οὐδ' ἀνδρὸς ἔργον ὑποχωρεῖν τῷ δαίμονι, καὶ μὴ δέχεσθαι τὸ σύμπτωτον ἀδεῶς, ἀλλ' ὑπεκδιδράσκειν. "It was neither manly nor pious to sink under his fortune, and to fly away from those evils, which he ought to have borne nobly."—And therefore the Hebrews called dying ἀπολύεσθαι, a dismission: "Lord, now lettest thou thy servant depart in peace," said old Simeon; "Nunc dimittis."—When God gives us our pass, then

[c] De Senect. cap. 20. §. 5. Wetzel, pag. 109.
[d] Somn. Scip. c. 3. Tooly, page 318.—See Fischer's Phædon, c. 5. and 7.

we must go, but we must not offer it an hour before: he that does otherwise is, 1. ungrateful to God, by destroying the noblest of his works below; 2. impious, by running from his service; and, 3. distrustful of his providence. "Nisi Deus is, cujus hoc templum est omne quod conspicis, istis te corporis custodiis liberaverit, huc tibi aditus patere non potest," said Cicero [e], "Unless God open the gate for you, you can never pass from the prison of the body, and enter into heaven."— And the same is affirmed by Hierocles [f], which I tell for the strangeness of it; for he was a Stoic, yet, against the opinion of his sect, he spake on the behalf of reason and religion: and this is the Christian sense,

Δεῖ γὰρ δεδέσθαι μέχρις ἐκλύσῃ Θεός·

said St. Gregory Nyssen [g]; "We must stand bound, till God untie us."

11. (5.) For a man to kill himself is against the law, and the voice and the very prime inclination of nature. Every thing will preserve itself: "No man hateth his own flesh, but nourisheth and cherisheth it," saith the Apostle: and therefore generally all nations, as taught by the voice of nature, by the very first accents which she utters to all men, did abhor the laying violent hands upon themselves. When some of the old Romans hanged themselves to avoid the slavery that Tarquinius Superbus imposed upon them of making public draught-houses, he commanded the dead bodies to be crucified, said Servius [h]. So did Ptolemy to the body of Cleomenes, who had killed himself; and Aristotle says it was every where received, that the dead bodies of self-murderers should be disgraced some way or other; ἀταφίᾳ ὑβρίζειν τὸν νεκρὸν, 'by denying them burial:' that was the usual way. So did the Milesians to their maidens who hanged themselves, they exposed their bodies to a public spectacle: and Strabo tells that the Indian priests and wise men blamed the fact of Calanus, and that they hated those hasty deaths of impatient or proud persons. "Alieno scelere quam meo mori malo," said King Darius; "I had rather die by the wickedness of another, than by my own."

[e] Somn. Scip. c. 3. Tooly, pag. 317.
[f] Ad Carm. aur. Pyth. Needham, pag. 68.
[g] Jamb. 18. [h] In 12. Æneid.

12. (6.) Aristotle says, that they who kill themselves, hastening their own death before God or the public commands them, are injurious to the commonwealth; from whose service and profit they subtract themselves, if they be innocent,—and if they be criminal, they withdraw themselves from her justice: Ἀδικεῖ ἄρα· ἀλλὰ τίνα; τὴν πόλιν· καί τις ἀτιμία πρόσεστι τῷ ἑαυτὸν διαφθείραντι, ὡς τὴν πόλιν ἀδικοῦντι· "He that kills himself, does wrong to the city; and is, after death, disgraced as an unjust person to the public[i]."

13. Now then to the examples and great precedents above mentioned I shall give this answer. (1.) That Sampson is by all means to be excused, because St. Paul accounts him in the catalogue of saints who died in faith; and therefore St. Austin[k] says 'he did it by a peculiar instinct and inspiration of the Spirit of God.' But no man can tell, whether he did or no: and therefore I like that better, which Peter Martyr says in this inquiry; 'he did primarily and directly intend only to kill the enemies of God, which was properly his work, to which he was in his whole calling designed by the Spirit of God; but that he died himself in the ruin, was his suffering, but not his design; but like a soldier fighting against his enemies, at the command of his general undertakes the service, though he knows he shall die for it.' Thus do the mariners blow up themselves in a sea-fight, when they can no otherwise destroy the enemy; they do it as ministers of justice, and by command; else they are not to be excused: and he that gives it, must take care it be just and reasonable. Thus did the brave Eleazar[l] Savaran the brother of Judas Maccabæus: he, supposing their grand enemy Antiochus to be upon a towered elephant, goes under the beast and kills him, who with his fall crushed the brave prince to death; he intended to kill not himself,—but, to kill Antiochus, he would venture himself or suffer death.

14. (2.) The fact of Saul is no just precedent; it looks like despair: but the Hebrews say, that it is not lawful for any man to die by his own hands, unless the prolongation of his life be a dishonour to God, and to a cause of religion; and upon this account they excuse both Saul and Sampson, for they knew that if they should fall or abide respectively

[i] Lib. 5. cap. 11. Eth. Wilkinson, pag. 224.
[l] 1 Macc. vi. 43. [k] Lib. 1. de Civit. Dei, cap. 16. et 21.

in the hands of scorners, the dishonour of their persons would disparage the religion, and reach to God. So they. But this is not right: for we only are to take care of the laws of God, and of his glory in the ways of his own appointment; for extraordinaries and rare contingencies, let him alone; he will secure his own glory.

15. (3.) For Razias, Lipsius says it is a question whether it was well or ill done; and who please to see it disputed, may read Lucas Brugensis on one side, and Nicolaus de Lyra upon the other. For my own part I, at no hand, believe it fit to be imitated; but concerning what brave and glorious persons do, and by what spirit they acted, I am not willing to give hasty sentence: for there are many secrets which we know not; but we are to follow our rule, and not to trust any spirit, of which we are not sure it is from God.

16. (4.) But of that which is most difficult, I have already spoken something; but shall add more: for it is a pitiable case that virtuous women, highly sensible of their honour, zealous for chastity, despisers of life, should not as well receive the reward of their suffering to preserve the interest of chastity, as of any other grace; especially since they choose death rather than shame, and would not willingly choose either, but being forced, run to death for sanctuary. It is true, it is much to be pitied; but that is all: "Ac per hoc et quæ se occiderunt, ne quicquam hujusmodi paterentur, quis humanus affectus eis nollet ignosci?" Every man (says St. Austin) will pity, and be ready to excuse, or to wish pardon to such women, who killed themselves to preserve their honour. Cicero [m] tells of certain noble virgins, that threw themselves into pits to avoid the shame of their enemies' lust: and St. Jerome [n] tells of seven Milesian virgins, who, to prevent the rudeness of the Gauls that destroyed all Asia, laid violent hands upon themselves. The Greek epigram [o] mentions them with honour, but tells but of three:

Παρθενικαὶ τρισσαὶ πολιήτιδες, ἃς ὁ βίαιος
Κελτῶν εἰς ταύτην μαῖραν ἔτρεψεν ἄρυς.
Οὐ γὰρ ἐμείναμεν αἷμα τὸ δυσσεβὲς, οὐδ' ὑμεναίου
Νυμφίον, ἀλλ' ἀίδην κηδεμόν' εὑρόμεθα.

They chose a sad death before a mixture with the lustful

[m] Orat. de Provinciis Consularibus, n. 6. Priestley's Cicero, vol. 3. pag. 1160.
[n] Adv. Jovinian, pag. 186. See Jacob. Anthol. vol. 6. p. 433.
[o] Anyt. Brunck, Anthol. i. p. 200.

blood of the Galatians. And the Jews tell of a captive woman of their nation, who, being in a ship and designed to ravishment, asked her husband, if the bodies of them that were drowned in the sea, should arise again: and when he had said they should, she leaped into the sea. And among the Christians that did so, there were many examples. Divers women of Antioch under Diocletian; more under Cosroes the Persian; Sophronia, under Maxentius; St. Pelagia before mentioned; and divers others,—these persons had great advocates; but I suppose it was upon the stock of pity and compassion, that so much bravery should be thrown away upon a mistake: and therefore I find that St. Chrysostom, who commended this manner of death upon the account of chastity, yet is not constant to it, but blames it in his commentaries upon the Galatians [p]: and the third council of Orleans commanded that the obligations of them, that died by the hands of justice should be received; "si tamen non ipsi sibi mortem probentur propriis manibus intulisse," always provided that they did not prevent the hand of justice, that they did not lay violent hands upon themselves. I end this with the saying of Procopius [q], which is a just determination of the case in itself. Βίαιος καταστροφὴ ἄχρηστος καὶ ἄνοια προπετής· τὸ δὲ εἰς θάνατον θράσος ἀνόητον τοῦ δραστηρίου πρόσχημα οὐκ εὐπρεπὲς τοῖς γε σώφροσιν εἶναι δοκεῖ, "A violent death, or a death hastened by our own hands, is a thing unprofitable, and full of foolish violence; and since it wants prudent counsel, it is by wise men judged to be but the image and hypocrisy of valour and magnanimity."—To which he adds, Καί τοι καὶ τοῦτο ἐκλογίζεσθαι χρὴ, μή τι δόξητε εἰς τὸ θεῖον ἀγνωμονεῖν, "This also ought to be considered, that no man ought to be impious or ungrateful towards God."—This is the definition of the case. But then as to the persons of them that did so, I have nothing to say but this, that they ought not to be drawn into example: but for the whole, it was modest and charitable which was decreed by the French capitulars [r]: "Concerning him who hath killed himself, it is considered, that if any one out of pity or compassion will give alms for their souls (so was the custom of those times), let him give, and say prayers and psalms, but not celebrate the solemn sacrifice for them;" "quia in-

[p] Gal. i. 1. [q] Gothicor. 4. [r] Lib. 6. c. 70.

comprehensibilia sunt judicia Dei, et profunditatem consilii ejus nemo potest investigare," "because the judgments of God are incomprehensible, and the depth of his counsels no man can fathom. This was more gentle than that of Virgil.

> Proxima deinde tenent mœsti loca, qui sibi letum
> Insontes peperere manu, lucemque perosi
> Projecere animas; quam vellent æthere in alto,
> Nunc et pauperiem et duros perferre labores[s]:

"He appointed a sad place in hell for them, that so cheaply, out of impatience, or to avoid a great trouble, threw away their souls. Fain would they now return to light, and joyfully would change their present state with all the labours and shames, which they, with hasty death, so earnestly declined." But he knew nothing of it, neither do I; only that it is not lawful. But how they shall fare in the other world, who, upon such great accounts, are tempted, is one of God's secrets, which the great day will manifest. If any man will be pleased to see more against it, he may find it in St. Austin[t], Hegesippus[u], Nicephorus Blennidas[x], Heliodorus[y], and divers others, well collected by Fabrot in his fifth exercitation.

RULE IV.

He eth at hathsuffered the Punishment, is not discharged in Conscience, unless he also repent of the Disobedience.

1. This rule is in effect the same with the first rule of the first chapter of this book: but because it is usally discoursed for also under the head of penal laws, and there are many persons who, when they have broken the law, and have suffered punishment, think themselves discharged; and because it ministers some particularities of its own,—I have therefore chosen distinctly to consider it.

2. In this inquiry, penal laws usually are distinguished into laws purely penal, and mixed. 1. Laws purely penal are such which neither directly command, nor forbid, but impose

[s] Æneid. vi. 434. Heyne.
[t] Lib. 1. de Civit. Dei, cap. 20, 21. 26. ep. 61. ad Dulcit. et lib. 11. contra 2. ep. Gaudent. cap. 23.
[u] Excid. Hieros. 3. cap. 17.
[x] Epitom. log. cap. 4.
[y] Æthiop. 2.

a penalty upon him that does or omits an action respectively. So Moses [a] to the children of Israel; "If a man shall steal an ox or a sheep, and kill it or sell it, he shall restore five oxen for one ox, and four sheep for one." 2. A mixed penal law is, when with the precept or prohibition the penalty is adjoined: so said God [a]; "Ye shall not hurt the widow or the fatherless; if ye hurt them, they shall cry unto me, and I will hear their cry, and my fury shall be kindled, and I will strike you with the sword, and your wives shall be widows, and your children fatherless." And of the same nature is that canon of the council of Agatho [b]: "We do by a special order, command all secular persons to hear the whole divine service upon the Lord's day, so that the people presume not to go forth before the blessing of the priest: but if any man shall presume to do so, let him be publicly punished by the bishop." 3. Other laws are purely moral, that is, preceptive without any penalty. This distinction Silvester derides as childish, and of no use; but others deride him: but whatever use it can be of to other purposes, it is of little in this. For whether the penalty be annexed or no, it obliges to penalty [c]; and therefore whether it be preceptive or no, it obliges to duty: and we see it in ocular demonstration in divers of the Levitical and moral laws of God, which sometimes are set down in the style of laws purely penal, and the same laws in other places are penal and prohibitive.

3. (1.) But why are punishments decreed in laws? Are they for the obedient, or for the disobedient? for good men, or for bad? Certainly, for them that do not obey. Now they that obey not, do well or ill, or it is indifferent whether they do or no: if they do well they are to be rewarded, and not punished; if the thing after the sanction be still indifferent, why shall he suffer evil that does none? But the case is plain, that in all just governments the punishment is decreed in the laws, that the law may be obeyed; and unless it be equally good to the prince that his subjects obey or be punished, that is, unless it be all one to him whether they be happy and advantaged, or miserable and punished, and that he cares not whether the subject receives the good or the evil of the

[a] Exod. xxii. 1. [a] Ibid.
[b] Can. Mass. de Consecrat. dist. 1.
[c] Tacitè permissum est quod sine ultione prohibetur: Tertul. 1. adv. Marc.

law,—it cannot be supposed that when the subject is punished, the law is satisfied in its first intention.

4. (2.) Add to this, If suffering the punishment does satisfy the law, then the subject is not tied to obey for conscience' sake, but only for wrath, expressly against the Apostle; and then laws would quickly grow contemptible: for the great flies that break through the cobweb lawns of penal laws, would be both innocent and unconcerned; innocent, as not being tied in conscience,—and unconcerned, as having many defensatives against the fine.

5. (3.) The saying therefore of St. Austin[d] hath justly prevailed: "Omnis pœna, si justa est, peccati pœna est, et supplicium nominatur;" "Every penalty is relative to an offence, and is called punishment."—And there can be no reason given, why, in laws, there are differing punishments assigned, but that they be proportionable to the greatness of the fault. It follows therefore, that whoever is obliged to suffer the punishment of the law, do ask God's pardon and the king's, for having done a sin, by which only he could be obliged to punishment. 'Reatus' or 'guilt,' both in divine laws and in human, is an obligation to punishment: for 'reatus pœnæ' and 'reatus culpæ' differ but as the right and left hand of a pillar; it is the same thing in several aspects and situations. And Lucius Veratius[e] was a fool, and a vile person; and having an absurd humour of giving every man he met, a box on the ear, he caused a servant to follow him with a bag of money, and caused him to pay him whom he had smitten, twenty-five asses, a certain sum which was, by the law of the twelve tables, imposed upon him that did an injury: but considered not, that, all that while, he was a base and a trifling fool for doing injury to the citizens.

6. This rule holds in all without exception: it seems indeed to fail in two cases, but it does not; only the account of them will explicate and confirm the rule.

7. (1.) In actions which are not sins, but indecencies, or unaptness to a state of office and action, the evils that are appendant to them, are also but 'quasi pœnæ,' 'half-punishments:' such as is the irregularity, that is incurred by a judge that gives sentence in a cause of blood; he is incapable of entering into holy orders by the ancient laws of the church. A

[d] Lib. 1. Retract. cap. 9. [e] A. Gellius, lib. 20. cap. 1. Oiselii, pag. 1093.

butcher is made incapable of being of the inquest of life and death: which incapacity is not directly a punishment, any more than it is a sin to be a butcher; but certain persons are, without their fault, declared unfit for certain states or employments. Now this confirms the rule, for still the proportion is kept; and if it be but like a fault, the consequent of it is but likea punishment. And if at any time these appendages are called punishments, it is by a catachresis or an abuse of the word, and because of the similitude in the matter of it. So we say, 'The righteous are punished,' that is, they suffer evil, for their own trial, or for the glory of God: and so it is in the law: "Sine culpa, nisi subsit causa, non est aliquis puniendus," "No man is to be punished without his fault, unless th ere be cause for it:" that is, no man is to suffer that evil, which in other cases is really a punishment, and in all cases looks like one. And from hence comes that known rule, and by the same measure is to be understood, "Etsi sine causa non potest infligi pœna, potest tamen sine culpa." The word 'pœna' is taken improperly for any evil consequent or adjunct.

8. (2.) This seems to fail in laws, that are conditional or conventional; such as are when the prince hath no intention to forbid or command any thing, but gives leave to do it, but not unless you pay a fine. Thus if a prince commands that none shall wear Spanish cloth, or ride upon a mule, or go with a coach and six horses, under the forfeiture of a certain sum; this sum is a punishment, and the action is a fault: but if the subjects shall ask leave to do it, paying the sum, then it is a conditional or conventional law, and obliges not to obedience, but to pay the fine. For these laws are not prohibitive, but concessory; and there is no sign to distinguish them from others, but the words of the law, the interpretation of the judges, and the allowed practice of the subjects.

9. Of the same consideration are all promises and vows and contracts which are made with a penalty annexed to the breakers. The interested person is first tied to keep his word: if he does not, he sins. But if he does sin, he must therefore pay the penalty; and if he does not, he sins twice. "Haud scio," says Cicero[f], "an satis sit eum, qui lacessierit, injuriæ suæ pœnitere." It is not enough for him to repent of the injustice,

[f] Offic. i. c. 11. §. 1. Heusing. p. 86.

but he must also pay his fine; and yet that does not acquit him from the first fault, but prevents a second. He that so contracts, is twice obliged; and the latter fault is paid by the penalty,—and the first fault by repentance and that together.

RULE V.

It is not lawful for a guilty Person to defend himself by Calumny, or a Lie, from the Penalty of the Law, though it be the Sentence of Death.

1. ALL the wisdom of mankind hath ever been busy in finding out and adorning truth, as being that in which we are to endeavour to be like God, who is truth essentially: and therefore Pythagoras[g] in Ælian did say, that 'the two greatest and most excellent works, that God gave to mankind to do, are the pursuits of truth and charity;' for these are excellences, for which God himself is glorious before men and angels. The Persian magi say, that Ormusd (so they called the greatest of their gods) was in his body like light, and his soul was like truth; and that therefore "by truth we are like to God, but by a lie we are made mortal," says Plato[h]. "Veritas, quo modo sol illuminans, colores, et album et nigrum ostendit, qualis sit unusquisque eorum, sic ipsa quoque refellit omnem sermonis probabilitatem; merito à Græcis quoque acclamatum est, principium magnæ virtutis est regina veritas[i]," "As the sun gives light to us, and distinction to black and white, so does truth to speech; and therefore the Greeks did rightly affirm, that truth is the beginning of the great virtue, that is, of perfection or virtue heroical," said St. Clement.

2. This is true in all regards: but the question is, whether truth can be practised at all times. For God speaks truth because it is his nature, and he fears no man, and hath power directly to bring all his purposes to pass: but the affairs of men are full of intrigues, and their persons of infirmity, and their understandings of deception; and they have ends to serve which are just, and good, and necessary; and yet they cannot be served by truth, but sometimes by error

[g] Lib. 12. Var. Hist. [h] Lib. 6. de Rep. [i] Clem. Alex. lib. 6. cap. 4.

and deception. And therefore the ancients described Pan, who was the son of Mercury, their god of speech, with the upper part like a man, and the lower part like a beast, rough, hairy, and deformed; not only to signify truth and falsehood, and that truth is smooth, even, and beauteous, and a lie is rough, ugly, deformed, and cloven-footed ("quia mendacii multiplex divortium," says one), but to represent, that in our superior faculties, and our intercourse with the power above us, we must speak truth, but that in our conversation with men below, it is necessary sometimes by a lie to advantage charity, by losing of a truth to save a life. Here then is the inquiry.

I. Whether it can in any case be lawful to tell a lie?

II. Whether it be lawful to use restrictions and mental reservations, so that what we speak, of itself is false, but joined to something within, is truth?

III. Whether, and in what cases, it is lawful to equivocate, or use words of doubtful signification, with a purpose to deceive, or knowing that they will deceive?

IV. Whether it be lawful, by actions and pretences of actions, to deceive others for any end; and in what cases it is so.

Question I.

Whether it can in any case be lawful to tell a lie.

3. To this I answer, that the Holy Scriptures of the Old and New Testament do indefinitely and severely forbid lying. "A righteous man hateth lying[k]," saith Solomon; and Agur's prayer was, "Remove from me vanity and lies[l]."—"For the Lord will destroy them that speak lies[m]." And our blessed Saviour condemns it infinitely, by declaring every lie to be of the devil. "When he speaketh a lie, he speaketh of his own, for he is a liar, and the father of it."—"Lie not therefore one to another," saith St. Paul[n]:—"For all liars shall have their part in the lake, which burneth with fire and brimstone[o]."—Beyond these things, nothing can be said for the condemnation of lying.

4. But then lying is to be understood to be something said or written to the hurt of our neighbour, which cannot

[k] Prov. xiii. 5. [l] xxx. 8. [m] Psal. v. 6.
[n] Col. iii. 9. [o] Rev. xxi. 8. 27.

be understood otherwise than to differ from the mind of him that speaks. "Mendacium est petulanter, aut cupiditate nocendi, aliud loqui, seu gestu significare, et aliud sentire:" so Melancthon: "To lie is to deceive our neighbour to his hurt." For in this sense a lie is naturally and intrinsically evil; that is, to speak a lie to our neighbour is naturally evil. Not because it is different from an eternal truth, for every thing that differs from the eternal truth, is not therefore criminal for being spoken, that is, is not an evil lie: and a man may be a liar, though he speaks that which does not differ from the eternal truth; for sometimes a man may speak that which is truth, and yet be a liar at the same time in the same thing. For he does not speak truly, because the thing is true; but he is a liar, because he speaks it when he thinks it is false. That therefore is not the essence or formality of a lie. "Vehementer errant, qui tradunt orationis esse proprium significare verum necessarium," said Scaliger; a man may be a true man, though he do not always speak truth. If he intends to profit and to instruct, to speak probably and usefully, to speak with a purpose to do good and to do evil, though the words have not in them any necessary truth, yet they may be good words. Simonides and Plato say it is injustice, and therefore evil: so does Cicero[o], and indeed so does the Holy Scripture, by including our neighbour's right in our speaking truth; it is "contra proximum," it is "against our neighbour;" for to himself no man can lie, and to God no man can lie, unless he be also an atheistical person, and believes that God knows nothing that is hidden, and is so impious when he says a lie. But a lie is an injury to our neighbour; who, because he knows not the secret, is to be told that in which he is concerned, and he that deceives him, abuses him.

5. For there is in mankind a universal contract implied in all their intercourses, and words being instituted to declare the mind, and for no other end,—he that hears me speak, hath a right in justice to be done him, that as far as I can, what I speak be true; for else he by words does not know your mind, and then as good, and better, not speak at all. "Humanæ aures verba nostra talia judicant, qualia foris sonant. Divina vero judicia talia esse audiunt, qualia ex in-

[o] Offic lib. iii.

timis proferuntur[p]." Though God judges of our words by the heart, yet man judges of the heart by the words; and therefore in justice we are bound to speak so as that our neighbour do not lose his right, which by our speaking we give him to the truth, that is in our heart. And of a lie thus defined, which is injurious to our neighbour so long as his right to truth remains, it is that St. Austin[q] affirms it to be simply unlawful, and that it can in no case be permitted, "nisi forte regulas quasdam daturus es, quibus noverimus ubi oporteat mentiri, ubi non oporteat;" by way of confidence and irony: he condemns it all, "unless peradventure (says he), you are able to give us rules, when a man may lie, and when he may not." "Quod non est bonum, nunquam erit bonum[r]." "That which is not innocent in itself, can never be made so." But "vitia non sunt, quibus recte uti licet[s];" if it can in any case become good, it is not of its own nature evil: so that if a lie be unjust, it can never become lawful; but if it can be separate from injustice, then it may be innocent. Here then I consider,

6. This right though it be regularly and commonly belonging to all men, yet it may be taken away by a superior right supervening; or it may be lost, or it may be hindered, or it may cease upon a greater reason.

7. (1.) Therefore upon this account, it was lawful for the children of Israel to borrow jewels of the Egyptians, which supposes a promise of restitution, though they intended not to pay them back again: God gave them commandment so to spoil them, and the Egyptians were divested of their rights, and were to be used like enemies.

8. (2.) It is lawful to tell a lie to children or to madmen, because they, having no powers of judging, have no right to truth: but then the lie must be charitable and useful; because they are defended by the laws from injury, and therefore must not have a lie told them, that can do them mischief. So that if a lie be told, it must be such as is for their good; for though they have no right to truth, yet they have right to defence and immunity: and an injurious lie told to a child or madman is a sin, not because it deceives him, but because it deceives him to his prejudice. Quintilian, the

[p] S. Gregor. lib. 26. Moral. cap. 7.
[q] Epist. 8. ad Hieron.
[r] Eurip. in Phœniss.
[s] Lactant. 6. Instit. 16.

great master of children, says, "Utilitatis eorum gratia multa fingimus," "We feign many things to affright or allure children to good," and from evil respectively. And so do physicians to their patients, abusing the fancies of hypochondriacal and disordered persons into a will of being cured. Some will do nothing without a warrant; others are impatient of your converse, unless you seem to believe them: and physicians can never apply their remedies, unless they pretend warrants, or compliances, and use little arts of wit and cozenage. This and the like were so usual, so permitted to physicians, that it grew to a proverb, "Mentiris ut medicus;" which yet was always to be understood in the way of charity, and with honour to the profession. But this any physician may not do, that is, not to every patient: for if the man be wise and can choose and can consider, he may not be cozened into his cure by the telling of a lie, because he is capable of reason, and therefore may choose what he hath a mind to, and therefore to cozen him is to injure him; and no man must commit a sin to do a good turn to a man against his will. And thus also in the case of children: their tutors or parents may not tell them every lie; they may not teach them lies and make them confident in vanities; but for their good, govern them as they can be governed. "Ut puerorum ætas improvida ludificetur[t];" All the world consents, when it is for their improvement. And to this is reduced the permission of inventing a witty fable, or telling a false story, to gain ground upon him that believes a false opinion, and cannot any other way so easily be confuted. Thus when two Eutychian bishops[u], who believing that the two natures of Christ made but one, did consequently believe that the divinity did die as well as the humanity in the death of Christ, came to the court of a Saracen prince, he pretended great sorrow and consternation of mind at the receipt of some letters; into the contents whereof when they with some curiosity inquired, the prince with a seeming great sorrow, told them he had received certain intelligence that the archangel Gabriel was dead. They to comfort him told him certainly it could not be true; and for their parts they did believe it to be impossible. 'O fathers,' said the prince, 'you do not believe it to be impossible that an archangel

[t] Lacret. i. 938. Eichstädt, pag. 39. [u] Niceph. 16. cap. 35.

should, when you affirm that the divinity did die.' Such a fiction as this no wise man reproves; it is but like the supposing a false proposition in disputation, that upon that false supposition a true conclusion may be erected.

9. (3.) It is lawful to tell a lie to our neighbour by consent, provided the end be innocent or pious. Thus St. Chrysostom and St. Jerome say that St. Peter suffered himself to be reproved by St. Paul before the gentiles for too much compliance with the Jews: not that he did it seriously, but *κατ' οἰκονομίαν*, he acted a part by consent to establish Christian liberty amongst the gentiles. I do not consent to the instance, because St. Paul tells it to the Galatians as a solemn story and a direct narrative, adding withal dogmatically, that St. Peter was to be blamed: but the instance will serve rightly to illustrate this limitation of the rule. But thus the parties in a war may write exactly contrary to the truth; when they are understood to what purpose, and when it is by consent. Because he who hath the right to truth, hath quitted it, and his communication does serve the ends of society well enough; and his words, though they are not agreeable to his ordinary mind, yet they are made to be so by particular institution and design. Thus, in besieged places, they write letters of confidence and great ostentation of the strengths, which they have not; when their parties have consented, that they should do so for their just advantages.

10. (4.) To tell a lie for charity, to save a man's life, the life of a friend, of a husband, of a prince, of a useful and a public person,—hath not only been done in all times, but commended by great and wise and good men. *Οὐ νέμεσις καὶ ψεῦδος ὑπὲρ ψυχῆς ἀγορεύειν*, "To tell a lie to save a life is no harm," said old Pisander[x]. Thus the Egyptian midwives are commended, because by their lie they saved the Israelitish infants: "O magnum humanitatis ingenium! O pium pro salute mendacium!" says St. Austin of them: "It was an excellent invention of kindness, and a pious lie for the safety of the innocents:" and St. Ambrose and St. Jerome commend them so, that they supposed them to receive eternal rewards. The same was the case of Rahab; to whom, it should seem that Phinehas, who was one of the spies, had given instruction and made in her fair dispositions to tell a lie

[x] Stob. Floril. tit. 12. line 9. (Bacon, p. 79.)

for their concealment. For when she had hidden Caleb, Phinehas said to her, "'Ego sum sacerdos.' Sacerdotes vero, quippe angelorum similes, si volunt, aspectabiles sunt; si nolunt, non cernuntur." But she made no use of that, but said directly they were gone away. Concerning which lie of hers St. Chrysostom[y] cries out, Ὦ καλοῦ ψεύδους, ὦ καλοῦ δόλου, οὐ προδιδόντος τὰ θεῖα, ἀλλὰ φυλάττοντος τὴν εὐσέβειαν, "O excellent lie! O worthy deceit of her that did not betray the divine persons, but did retain piety!" Thus we find St. Felix[z] telling a lie to save his life from the heathen inquisitors.

> Felicem sitit impietas ———
> Felicemque rogant, Felix ubi cernitur: et non
> Cernitur ipse, nec ipse vir est, cum sit prope, longe est.
> ——— persensit et ipse faventis
> Consilium Christi, ridensque rogantibus infit,
> 'Nescio Felicem quem quæritis:' ilicet illi
> Præteruent ipsum; discedit at ille platea,
> Illudente canes Domino frustratus hiantes.

They asked where Felix was; himself answered, that 'he knew not Felix whom they looked for:' and yet no man finds fault with this escape. "Deceptio et mendacium semper alias mala res, tunc tantum sunt usui quando pro remedio sunt amicis curandis, aut ad vitandum apud hostes periculum;" they are the words of Celsus in Origen: "A lie is otherwise evil, only it is then useful when it is for remedy to cure the evils of our friends, or to avoid the evils from our enemies." The same almost with the expression of Clemens Alexandrinus[a], who allows ψεύδεσθαι ἐν θεραπείας μέρει, "to lie when it is a remedy." So Lucian[b] amongst the heathens, "Qui, cum usus postulat, mentiuntur, venia nimirum hi, imo aude plerique eorum digni sunt; quicunque vel hostes fefellerunt, vel ad salutem tali quopiam pharmaco usi sunt in necessitatibus;" "They are not only to be excused or pardoned, but to be commended, that lie, when they use it as a remedy or a medicine in the danger or necessities of our friends;" where also the scholiast does allow an officious lie. So we must use a lie, says Cassian[c], "quasi natura ei insit

[y] Homil. 5. de Pœnitent. [z] Natali. 5. S. Felicis. [a] In Philopsen.

[b] The original words are, Συγγνώμης τοίγαρoῦν οὗτοί γε μᾶλλον καὶ ἐπαίνου τυγχάνουσιν αὐτῶν ἄξιοι, ὁπόσοι ἢ πολεμίους ἐξηπάτησαν, ἢ ἐπὶ σωτηρίᾳ τῷ τοιούτῳ φαρμάκῳ ἐχρήσαντο ἐν τοῖς δεινοῖς. Philops. c. 1. Bipont. vol. 7. pag. 248. (J. R. P.)

[c] Lib. 5. Constit. cap. 37.

hellebori," "as a man uses hellebore:" and he commends Archebius for deceiving some persons with a charitable lie. It is therefore no wonder, if Pliny[d] commends Arria the wife of Cæcina Pætus for so often lying to her sick husband in the concealment of the death of their beloved boy; which she therefore hid, lest the grief should extinguish her husband. In short, St. Austin[e] says, that all the philosophers, as Plato, Xenophon, Lucian, the lawyers, the physicians, the rhetoricians, and theologues, did affirm that it was sometimes lawful to tell a lie: that is, when it did good and no evil: Τὸ γὰρ ἀγαθὸν κρεῖττόν ἐστι τῆς ἀληθείας, said Proclus, "For charity is better than truth," and to save a man's life is better than a true story. The archbishop of Tyre (as I remember) tells a story, that a malicious Saracen had secretly defiled one of the mosques, or places of worship, which the Turks have in Jerusalem. The fact was imputed to the Christians, who generally denying it, but having no credit with their enemies, were all presently dragged to the place of execution. Amongst them there was a young man pious and noble, who seeing all his brethren in a sad condition, and himself equally involved, by an officious and charitable lie, took the fact upon himself, and confessed himself alone to be the doer of it, and that the rest knew nothing of it. Himself indeed was put to death with exquisite torments, but he saved the lives of all the rest; who, I doubt not, believed that young man to have in heaven, a great reward for his piety, and no reproof for his innocent and pious lie; for in memory of this noble act, the Christians, in Jerusalem, once a year, marched with palms in their hands into the city, to perpetuate the memory of that deliverance.

11. (5.) Now this may be better admitted, in case the charitable lie be told to him to whom the good accrues; for then there is a leave justly presumed; and he that receives the good, is willing to receive it with the loss of a useless or hurtful truth, and therefore there is no injustice done: as he that takes his neighbour's goods, for which he hath reason to believe his neighbour willing, is no thief, nor the other a deceiver. Ἀπατᾷ μὲν, ἀπατεὼν δὲ οὐκ ἔστιν· οὐ γὰρ τέλος ἔχει τὴν ἀπάτην τοῦ νοσοῦντος, ἀλλὰ τὴν σωτηρίαν, says Andronicus Rhodius; "He does indeed deceive, but he is no deceiver;

[d] Lib. 3. Epist. 16. Gierig. vol. 1. pag. 276. [e] Quæst. 58. in Levit.

because not the cozening but the curing of his friend is the purpose of his false affirmative."—And to this we suppose that every man is willing enough, and therefore not at all injured. And this reason was good in such charitable deceptions, which are by implicit consent or leave justly presumed: so Darius Hystaspes in Herodotus, "Ubi expedit mendacium dicere, dicatur: nam idem optamus, et qui mendacium dicimus, et qui veritatem."—Every man is willing enough to be deceived into his own advantage; and therefore when it is so, in such things where the man is willing to receive advantage, there is no harm done, if he be deceived that he may not be undone. He that is in danger of drowning, is willing enough to be pulled out of the water, though by the ears, or the hair of his head; and we have reason to believe so in the present affair. "Mendacium nemini noxium, sed alicui commodum, honestum esse," said Bishop Heliodorus, in his Fair Ethiopian. He was indeed then writing a romance, by which he intended to do good and no harm, and therefore believed himself innocent. Upon this account the apologues or fables of Æsop, the parables of wise men, and their dark sayings, the cases which lawyers put, and the fictions of law, have their justification, "Et prodesse solent, et delectare"—They hurt no man, and do good to every man; "they do him profit, and they do him pleasure."

Exit in immensum fœcunda licentia vatum;
Obligat historica nec sua verba fide [f].

Poets do intend to teach, not to deceive, in their fictions, and therefore are allowed.

12. (6.) But if the lie be told to another for the preservation not of himself, but of a third person, then the case is more difficult, for here is no presumptive leave, but it is against the mind of the inquirer. Now concerning this, though it be allowed by very many of the ancient doctors of the church, and by the wisest among the heathens, and hath in it a very great charity: yet I cannot see sufficient cause to allow it.

Καλὸν μὲν οὖν οὐκ ἔστι τὰ ψευδῆ λέγειν·
Ὅταν δ' ὄλεθρον δεινὸν ἡ λάθοι' ἄγει,
Συγγνωστὸν εἰπεῖν ἐστι, καὶ τὸ μὴ καλόν [g].

"It is at no hand good to tell a lie: but when a truth brings

[f] Ovid. Eleg. iii. 12. 41. Mitscherl. vol. 1. pag. 202.
[g] Sophocl. in Creusa. Stob. Floril. tit. 12. pag. 79.

an intolerable evil, it is pardonable, but not commendable;" so the Greek tragedy: because it is of itself evil to lie to our neighbour. Not that every false proposition, spoken knowingly, is a sin; but if it be spoken to deceive, and not to profit, it is spoken to the injury of him that hears, and is a sin, because it is unjust, and therefore not to be done for any good; and it is in this very instance, in which St. Paul was angry at them who intimated, that he told a lie for a good end; it may not be done, when to do it is unjust or injurious. I approve therefore the opinion of St. Austin[h], I am sure it was one of his opinions, for in this question he had more than one: "Duo sunt genera mendaciorum, in quibus non est magna culpa, sed tamen non sunt sine culpa;" "There are two sorts of lies which have in them no great fault, but yet they are not innocent: the one is to lie in jest; which is therefore not pernicious, because it does not deceive, for it is taken but for a jest: the other is to lie for the good of our neighbour; which therefore is the less, because it hath something in it of good will."—And Tertullian[i] is of the same opinion, who reckons 'necessitate mentiri,' 'to lie in the time of need,' amongst the sins of daily incursion, or of an unavoidable infirmity. And St. Austin discourses it very well; "When it is asked, whether a good man may lie or no, we ask not after him that belongs to Egypt, to Jericho, or to Babylon, or to the earthly Jerusalem which is in bondage with her children: but what is his office that belongs to the mother of us all, that city that is from above? and then we answer, that no lie is of the truth: but concerning the citizens of this city, it is written, that a lie was not found in their mouths[k]." So that, upon this account, all those examples recorded in Scripture, of great persons telling a lie in the time of the danger of themselves or others is no warrant, no argument of the lawfulness of it; for they were under a looser law, but we under a more perfect and more excellent: and yet they did not do well; and if we imitate them we do worse.

13. And therefore, we find great examples of Christians and of heathens, whose charity was not cold, but their love of truth and righteousness was much warmer than in the for-

[h] Caul. 22. qu. 2. c. Noquis. [i] Lib. de Pudicit.
[k] De Mendacio, ad Consentium.

mer examples. St. Austin[1] tells of Firmus bishop of Tragasta, that when one, who by evil chance had killed a man, fled to him to be concealed from the avengers of blood; to the inquirers he answered, "Nec mentiri se posse, nec hominem prodere," "He could neither lie, nor yet betray the man."—For which answer and refusal the bishop being brought before the emperor, as a reward both of his charity and his truth, he obtained pardon for the man. And it was a great thing which Probus tells of Epaminondas, and Plutarch of Aristides, that they were so great and severe lovers of truth, that they would not lie so much as in jest. Indeed that was very well: and it is of greater obligation to Christians, to whom not only purity and simplicity, ingenuity and sincerity, are commanded, but all vain talking is forbidden. But the case is not so clear in the matter of difference, when it happens between a great charity and an unconcerning truth. For who would not save his father's life, or the life of his king, or of a good bishop and a guide of souls, at the charge of a harmless lie, from the rage of persecutors and tyrants? God indeed in his providence hath so ordered the affairs of the world, that these cases seldom happen: but when any man is surprised or tried, unless he be sure, that it is in that case a sin to tell a lie, he may be sure it is a very great sin to betray his prince or prelate, his father or his friend. Every man, in that case, would dispute hardly, rather than give up a good man to death. And if it be come to a dispute, and that it be doubtful on either hand whether the lie in that case, or whether the betraying the man to death, be the sin,—it is the safer way to determine for the charity than for the veracity; because in case it be a sin to give him up, it is a much greater sin than to tell such a lie: and then comes in the rule, "Caret peccato, quod ex duobus minus est." The lie is the less evil; and therefore it is no sin, when it is chosen to avoid that, which, for aught we know, is the greater. But this is upon supposition, that the case is doubtful. To which also must be added, that it must also suppose, that it is just to save the man, or that we think it so: for to rescue a malefactor, a bandit, a fugitive of law, hath in it no such obligation. But if it be just that the man be saved, that is a higher justice than the obligation of telling truth to the

[1] Lib. de Mendac. cap. 13.

persecutor; to whom it is as great charity, if from him we take the power of doing evil, as it is justice to rescue the innocent. Now this, and the opinion of so many great men that allow it, and the favourable nature of the case, are enough at least to make this matter probable; and if there be a doubt it is enough to establish it: the question being uncertain, is enough to make the practice certain.

And indeed, if we consider things without the prejudice of easy and popular opinions, though it be said, that to tell truth is an act of justice; yet this is not true in all propositions, but in such truths only, which concern a man for some real good to him, or for some imaginary good which hath no real evil. But when the telling of a truth will certainly be the cause of evil to a man, though he have right to truth, yet it must not be given to him to his harm: it is like the giving to a madman his own sword; you had better give him a wooden dagger, though the other be his own. But in an unconcerning truth what interest can any man have that is worth preserving? What wrong is done to me if I be told that Alexander died upon the floor, and not upon a feather-bed? or that Pittacus's wife hurt her fingers, when she threw down the table of meat before her husband's friends? Truth is justice when it does good, when it serves the end of wisdom, or advantage, or real pleasure, or something that ought or may be desired; and every truth is no more justice, than every restitution of a straw to the right owner is a duty. "Be not over-righteous," says Solomon. In these things, there is no question but the pretences of little justice ought to serve the great end of charity; and much rather if the truth will do no good and will do hurt to him that inquires, and more to him who is inquired after. The persecutor hath a right to truth, but no right to be undone; and therefore he is not wronged by that lie that saves him harmless in some measure, and his brother in more; and if he be not wronged, then no man is: and then the lie that so well serves charity, is not against justice; and unless every lie be intrinsically evil and malicious, it hath in such cases no irregularity. And if it be objected, that 'we must not tell a lie for God, therefore much less for our brother;' I answer, that it does not follow: for God needs not a lie, but our brother does: and besides this, there can no service be pretended to be done

to God by a lie, but it must be in the matter of justice or religion, in both which cases a lie is neither to be told for God nor our brother; but a real service may be done for our brother by such a lie, as sins neither against justice nor religion; in which case only I say it may seem to be allowable.

14. But then from these premises the truth in the instance of the rule is established; for it is not lawful for a guilty prisoner to say 'Not guilty,' when he is justly interrogated. "Christianum non mentiri, etiamsi moriatur ex tormentis," said Clemens Alexandrinus[m]; "A Christian will not lie, though to escape death with torments:" for the law says, "Thou shalt not kill;" and the law says, "Thou shalt not lie;" but the law itself does sometimes kill, but the law does never lie. For although it be said, that no man is bound to accuse himself, and indeed the laws of man do not tie him to do it: yet this hinders not the conclusion in this case; for in the present case the man is accused already, and he is not called to be his own accuser, but to confess the fact if he be justly accused by the law: for why does the judge ask, but to be answered truly? For there being three ways in law of proceeding to definitive sentence, 1. The notoriety of the fact; 2. The conviction of witnesses; and, 3. The confession of the party; in the destitution of the first, to prevent the trouble of the second, the law interrogates concerning the third; and it is as in the case of Joshua and Achan, "My son, give glory unto the Lord, and confess thy fault." It is true, it is a favourable case; and when a man's life is at stake, he hath brought himself into an evil necessity: but there is no excusing of a false denial, but it is certainly criminal; and nothing can excuse it, unless the law should give leave to such persons to say what they would, which cannot be supposed in any good government; for then trials of criminal causes between the judge and the thief would be like a match at fencing, and it is infinitely confuted by those laws, which use to examine by scourgings or torture: which whether it be lawful or unlawful, I do not here determine, but I affirm it to be a great testimony, that laws do not love to be played withal, but when they ask soberly, intend to be answered truly.

This is also to be extended to the case of advocates, who in a good cause, must not use evil arts. For we must not

[m] Num. 16.

tell a lie for God, and therefore not for the interest of any moral virtue, nor for the defence of righteousness; for a cavil or an injurious lie, is out of the way to justice, and shemust not be directly wronged that she may be indirectly righted. In the civil law it is permitted, that to avoid abuses and the injurious craft of the opposite party, the advocate of the right may use all arts that are not lies and falsity: "Nec videtur dolo fecisse qui fraudem excluserit," says the law[n]. He may be overthrown by art, so he be not by that which is false: "sic ars deluditur arte." But in the case which the lawyers out of Baldus put, the question is evident. Agricola borrows of Sempronius five hundred pounds, and pays him at the day, but without witness: Sempronius sues him for the money: Agricola owes him none, but cannot prove the payment; but yet may not, when he is particularly interrogated, to save himself from injury, deny that ever he received any. He must confess the truth, though he pay the money again. Covaruvias affirms, that he may, in this case, lawfully deny that ever he received any; because he is not indebted, he received none that remains in his hand: and to other purposes the judge cannot question him; and if he does he is unjust, and therefore Agricola is not tied to answer rightly. But this is not well said nor well considered. For the judge being competent may require him to answer; and the intention of the question is not to know whether Agricola had paid the money, yea or no; but whether he borrowed it, for if he did, the judge is afterward to inquire concerning the payment: and as Sempronius was tied to prove that, so is Agricola tied to prove this; and a lie is not to be confuted by a lie, nor the error of Agricola in not taking witnesses, or an acquittance to be supplied by a direct denial of a truth. But if Sempronius had lent Agricola five hundred pounds, whereof he hath received two hundred pounds, if the judge ask whether he owes him that sum which Sempronius demands, he may indefinitely and without more punctuality deny the debt, that is, of five hundred pounds, saying that he owes it not: and if the law be such that the confession of one part entitles him to the whole, he may deny the whole to be due, in case he hath paid a part. But with these two cautions, 1. That if he be asked concerning a part,

[n] L. Compet. Sect. Titio, ff. de Legat. Secundo.

he answer to that as justly as he answers to the whole; 2. That he do not make use of this subterfuge to defraud Sempronius of what is due debt, but only to defend himself from the undue demand. These cautions being observed, he hath liberty so to defend his cause, because "majori summæ negative prolatæ minorem nec naturaliter nec civiliter inesse," say the lawyers. A man by denying the whole, does not deny the part, though he that affirms the whole, affirms the part; and therefore this defence is just because it is true. But now if in a just cause the advocate or party may not tell a lie; I conclude that much less may he do it in an unjust cause, and for the defence of wrong. But 'much less,' signifies nothing, for it may not at all be done in either; and in pure perfect negatives there can be no degrees. But in artifices and crafty intercourses there is some difference: these may be used to defend a just cause that can no other way be defended; but they may not be used to promote an evil cause; because they of themselves, though they be indifferent, yet not serving a good end but an evil, do therefore become evil. And therefore the Greek that denied the 'depositum' of his friend, and offered to swear at the altar that he had restored it already, did not preserve his conscience and his oath, by desiring his friend to hold the staff in which he had secretly conveyed the money. It is true, he delivered it into his hand, desiring that he would hold it till he had sworn; but that artifice was a plain cozenage, and it was prettily discovered: for the injured person in indignation at the perjury, smote the staff upon the ground, and broke it, and espied the money. But that made all right indeed, though against the intention of the perjury. Such-like arts as these must not be used to do a mischief; if they do charity and justice,—though they have not something to legitimate them, they have very much to excuse them.

15. (7.) It is lawful to do otherwise than we have said, when the doing is better than the saying: if the saying were ill, there is no scruple of it; for it ought not to be done, but the saying is to be repented of: not that the saying was a lie, for there is no way of making it good but by causing it to pass into a lie, that is, into vanity and nothing. But then, if the saying be less good, and the deed be contrary, and yet much better, the truth is not so much as the bounty;

and there is no injustice in the lie, because there is charity in the action, and a sufficient leave presumed to be given by him that is concerned. Thus the emperor that said he would cut off every one that pissed against the wall, being afterward appeased and persuaded to mercy towards them that had done amiss, he expounded his words concerning dogs, and caused all the dogs in the town to be killed. No man here was injured; and it had been an importune adhering to a truth, and a cruel verification of his word, to have preferred his word before the lives of so many citizens.

16. (8.) It is not lawful to tell a lie to save our fame; but we must rather accuse ourselves than tell a lie, or commit any other sin. "Nemo tenetur infamare se," is a rule universally admitted amongst the casuists; "No man is bound to discover his own shame." And upon this account, they give leave to men to hide their sin, to leave their repentance imperfect, to tell a lie, to hazard the not doing of a known duty, to injure innocent persons. Thus when a man hath stolen goods, he is bound to restore, but not if it cannot be done without discovering his person, because no man is bound to disgrace himself. If an adulteress hath some children by her husband, others secretly by a stranger, she is bound not to suffer the legitimate to be injured by provisions for the other: this is true: but if she cannot prevent the injury to the legitimate without discovering herself to her husband, "non tenetur," "she is not bound" to defame herself. If her husband examine her concerning it, she may hold her peace: but if that increases the suspicion, she hath no way to escape but by denying it; for she is not obliged to betray or accuse herself. This is the doctrine of the canonists and masters of conscience in the church of Rome, which, as yet, are almost all that have written upon cases. Navarre[o] is the man, whom I choose for all the rest. "Nemo tenetur restituere cum periculo famæ consequentis virtutem moralem vel theologicam; non famæ partæ in aliis rebus præclaris; ut ingenio, divitiis;" "No man is bound to make restitution with the hazard of his fame consequent to a moral or theological virtue;" that is, if it will make him suspected not to be a good man: but if it will only hinder or hazard his reputation of wisdom or wealth or any thing of

[o] Habetur in Compendio Navarri per Petr. Guivar. edit. Antwerp. 1595. p. 93.

these natures, it hinders not. And again[p] in the case of an adulteress, "Peccavit, sed potest absolvi, licet taceat, et noceat patri putativo et hæredibus, quando timetur mors, vel amissio famæ," &c. "She hath sinned, but she may be absolved, though she hold her peace, and be injurious to the supposed father, and wrong the heirs; that is, if she be in peril of her life, or fears the loss of her fame."—To save a man's credit, an honest man, to whom it would be a great shame to beg, 'videtur posse clanculum necessaria surripere,' 'may privately steal necessaries:'" so Diana[q]. And if so, I do not doubt but he may also lie, and deny it to save his credit, if he be asked uncivilly concerning it. But this also the doctors expressly affirm, that if Titius have disgraced Caius by publishing his secret shame to defame him, he is bound to make restitution of his good name, by denying what he said, that is, by telling of a lie, or by mental reservation; and that is all one, as I shall prove in the sequel. So Emonerius. Against these prodigies of doctrine I intend this paragraph. We must not commit a sin to save our life, much less to save our fame; and indeed nothing does more deserve infamy than to tell a lie, nothing disgraces a man more: and if a lie be an injustice, then no end can save it harmless.

17. But then concerning our fame, we must rather let it go, than let our duty go. For though our fame is a tender part, and very valuable, yet our duty is more: although our fame is necessary for others, yet a good conscience is necessary to ourselves[r]: and he is cruel that neglects his own fame; but he is more cruel that neglects his own soul: and therefore we may expose our good name to go as God shall please, 1. When we ask counsel and remedy for our soul. 2. To avoid the sin of pride, and punish the vanities of our spirit. 3. To exercise and increase the grace of humility. 4. In humiliation and penance for our sins, when our fame is not necessary to others, that is, when we are not eminent and public persons. 5. When we are tied to any express duty which is indispensably necessary, as restitution of fame or goods, and yet cannot be done without the publication of our person and our shame. 6. When for our own greater good or for the

[p] Pag. 82. [q] Vide Compen. Impress. Lugd. 1641. pag. 335.
[r] S. Aug. lib. de Bono Vidait. cap. 22.

public interest we are commanded by a just and competent authority. 7. And lastly, When we must either confess our sin or tell a lie, which is the thing now in question; for we must rather suffer shame than do things worthy of shame,—rather be ashamed before men than be ashamed before God, that is, rather be disgraced than damned: for nothing needs a lie but a sin to hide it, and by a lie a sin is made two.

18. (9.) It is not lawful to tell a lie in humility, or the confession of sins and accusation of ourselves. "Cum humilitatis causa mentiris, si non eras peccator antequam mentireris, mentiendo efficeris quod evitâras;" said St. Austin[s]. "He that lies in humility, and calls himself a sinner in that wherein he was innocent, hath made himself a sinner by his lying.—And this was it which Abbot Zosimus[t] wittily and piously replied; for when he said he was the greatest sinner, and the vilest of men, to him that reproved him for saying so, and telling him that it was not truly said of him, because every one knew he served God with great diligence and great sincerity, and therefore he ought to speak more truly of himself and more thankfully of God; Zosimus replied, 'You say very well, I ought to speak truth of myself and thankfully of God: but I am false and unthankful, but therefore I did say true, and not unthankfully.' But we have truth enough to say of ourselves to make us humble without saying what is false. Ὁ δὲ εἴρων ἀνάπαλιν, ἀρνεῖσθαι τὰ ὑπάρχοντα, ἢ ἐλάττω ποιεῖν, says Aristotle[u]; "To deny the good things that are in us, or to make them less, is dissembling."—All pride is a lie; but humility is truth: and therefore it is but a dissembling humility that lives upon the bread of deceit. Synesius, bishop of Ptolemais, was a wise man and a great philosopher. But when he was chosen bishop, he refused it passionately; and that his refusal might be accepted, declaimed most bitterly against himself; that he was a man given to gaming, from which a bishop should be free as God himself; that he did not believe that the world would ever perish; that he did not assent to the article of the resurrection of the dead; that being a philosopher of the Stoical sect, he was something given to lying; that he was not popular in his opinions, but humorous and morose,

[s] De Verb. Apost. [t] Dorotheus Doctr. 2. n. 11.
[u] Eth. lib. 4. cap. 7. Wilkinson, pag. 169.

secret and resolute; that if he was forced to be a bishop, he would then preach all his opinions. For all this, Theophilus bishop of Alexandria consecrated him bishop, as knowing all this to be but stratagem and the arts of an odd fantastic humility. But it was ill done; and Synesius had this punishment for his lying modesty, that he was believed by posterity to be so heathenish and unworthy, that that church chose him bishop only upon hopes he would mend. So Evagrius[x] and Nicephorus[y] report.

19. (10.) In a just war, it is lawful to deceive the unjust enemy, but not to lie; that is, by stratagems and semblances of motions, by amusements and intrigues of action, by ambushes and wit, by simulation or dissimulation,

Ἢ δόλῳ, ἢ βίῃ, ἢ ἀμφαδόν, ἢ κρυφηδόν,

"by force or craft, openly or secretly," any way that you can, unless you promise the contrary: for it is in open war, if the war be just, lawful to do justice upon the enemy all the ways we can; craft is but the facilitation of the force; and when it is a state of war, there is nothing else to be looked for. But if there be a treaty or a contract, a promise or an agreement, in any thing, that is a state of peace so far, and introduces a law; and then to tell a lie or to falsify does destroy peace and justice, and by breaking the law reduces things to the state of war again.

——— Χρὴ δὲ πᾶν ἔρ-
δοντ' ἀμαυρῶσαι τὸν ἐχθρόν[z],

"It is lawful to do any thing to destroy your enemy;" that is, so long as you profess hostility: and therefore if you tell a false tale to him to deceive him, when you are fighting against him, he is a fool if he believes you, for then you intend to destroy him; but you are not unjust, you are in a state of war with him, and have no obligation upon you towards him. Thus Elisha[a] told a lie to the Syrian army which came to apprehend him, "This is not the city, and this is not the way:" and this is approved and allowed by Plato and Xenophon, Homer and Pindar, Polybius and Thucydides, Plutarch and Lucian amongst the Greeks, Philo amongst the Jews: and St. Chrysostom[b] amongst the Christians says, "If

[x] Evagr. lib. 1. cap. 15. Hist.
[y] Niceph. lib. 14. cap. 55.
[z] Pindar. Isth. iv. 81. Heyne.
[a] 2 Kings, vi. 19.
[b] Lib. 1. de Sacerdotio.

you examine all the bravest generals, you shall find their bravest trophies to be the production of fraud and craft, καὶ μᾶλλον τούτους ἐπαινομένους ἢ τοὺς φανερῶς κρατοῦντας, "and that they were more commended than such who did their work by fine force." Thus the causing false rumours to be spread amongst the enemies is an allowed stratagem in war, neither ignoble nor unjust. Flaccus[c] told that Æmilius had taken the enemies' town, to dishearten the party he fought against: and Quintius the consul caused to be spread abroad, that the enemies on the right wing were fled. By such arts it is very usual to bring consternation to the hostile party: and he whom you may lawfully kill, you may as well deceive him into it, as force him into it; you being no more obliged to tell him truth than to spare his life: for certainly of itself killing is as bad as lying; but when you have no obligation or law to the contrary, and have not bound yourself to the contrary, you may do either. But this is at no hand to be done in matters of treaty or promise, either explicit or implicit, as in parties, and truces; and therefore it was a foul stain upon Hannibal, that he professing open war against the Romans, did also profess it against faith and justice, keeping no word or promise, if it was for his advantage to break it; and the Trojans were troubled in conscience at their fallacious conducting of their wars, not by stratagem, but by breaking their oaths and covenants,

——— τῶν δ' ἅμα πιστὰ
Ψευσάμενοι μαχόμεσθα. τῷ οὔ νύ τι κέρδιον ἡμῖν, &c.[d]

"We fighting with lying and breaking promises," which is unlawful to do. For concerning this thing, that even in war we are bound to keep faith and promise made to our enemies, it is certain and affirmed by almost all wise and good men of the world: "Liquet etiam in bello fidem et justitiam servari oportere, nec ullum decorum oportere servari, si violetur fides," said St. Ambrose[e]; and he proves it by example of Joshua, who kept his promise with the Gibeonites got fraudulently from him. And the same is the sentence of St. Austin[f]; "Fides quando promittitur, etiam hosti servanda est, contra quem bellum geritur:" and therefore when Nebuchadnezzar had conquered Zedekiah, and taken him into protection and

[c] Livius, lib. 3.
[d] Iliad. H, 351. Heyne, vol. 1. p. 392.
[e] De Offic. lib. 1. cap. 29.
[f] Epist. 1. ad Bonifac.

peace upon his word and promise of fidelity, because he afterward did privately solicit the king of Egypt to fight against the king, he was put to death with greatest cruelty. And this is not only true between those who are public enemies, foreigners, and strangers, and supreme in their respective dominions, which the law properly signifies under the word 'hostes[g];' for this is without question; and therefore all men condemn those that violate ambassadors, or that break the laws of truce; and every one blames Titus Labienus[h] for wounding Commius of Arras under the colour of parley: but Attilius Regulus[i] is commended for refusing to give his voice in the senate so long as he was not discharged of his oath made to the Carthaginians. But this is also true, and our word and faith are sacred, when it is passed to all sorts of enemies, to rebels, to thieves, to civil adversaries, to condemned persons, to fugitive servants, such as Spartacus, Eunus, and Athenio; and the reason of all is the same. "Inter quos juris alicujus communio est, inter eos obligationem contrahi;" "They that are under the same laws, are equally bound;" and whoever promise or treat, do it at least by the law of nature or nations, which alike bind them who are free from any civil obligation. This is that which Triphoninus said, that if a thief intrusts any goods to the right owner, not knowing that they are his own, he is not obliged to restitution; but every man else is, if he have promised, because they are none of his, and therefore he can be obliged to repay them: and for thieves and fugitives the people of Rome did treat with them, and send ambassadors; and all that was bound upon them by that intercourse they kept religiously. And the same they did to condemned persons; as appears in that famous case of Caius Rabirius[k], who was questioned for killing L. Apuleius Saturninus against the public faith given him by the people, when he and his companions fled to the Capitol for immunity and a guard against the sentence of death which he had deserved.

But all this is to be understood so, that the faith and word be given by him who hath power to verify it; but when A. Albinus made a peace with King Jugurtha, for which he

[g] L. Quos nos, ff. de Verborum Signif.
[h] Cæs. B. G. viii. 23. Oberlin. p. 535.
[i] Cicer. Offic. iii. 27. 2. Heusing. pag. 766.
[k] Vide Orat. Cicer. pro C. Rabirio. Appian. Bel. Civil. 1.

had no commission, the senate was not obliged to verify it; and Camillus the dictator broke the peace which the Romans had foolishly made with the Gauls; and Scipio dissolved the contract, which Masinissa and Sophonisba made without his leave, who had the power. In this there is only caution to be had, that there be no combination to deceive or rescind what is found to be disadvantageous, nor advantages taken by the change of hands. For if the Romans, finding relief come, made Camillus dictator that they might by pretence of his command break the peace, they did dishonourably and false; but if he was dictator before the peace, he had power, and he had reason. To this can be referred the case of two Italian gentlemen. Guarino had injured Antonio de Imola; but confessed his fault, asked pardon, made amends: and then Antonio swore his peace and his forgiveness, and that his hand should never be upon him; but in his heart bore him a secret grudge, and therefore smote him secretly, saying that Guarino was a bandit, and therefore condemned by the laws. This is to make our promise the cover of a lie, and the laws to minister to crafty mischiefs. After a promise, a man must not change his mind, and then make excuses. "Renunciatio sui juris per pœnitentiam revocari non potest," saith the law[l].

But deceiving the enemy by the stratagem of actions or words is not properly lying; for this supposes a conversation of law or peace, trust or promise explicit or implicit. A lie is the deceiving of a trust or confidence; but in fighting there is none of that; it is like wrestling and fencing, a design to make that part unarmed where he may strike the surer: and of this St. Clement[m] of Alexandria affirms expressly concerning stratagems in war: "Hæc omnia licebit efficere, vel persuadendo, vel cogendo, vel injuriam faciendo in iis ulciscendis quibus expedit, vel faciendo id quod justum est, vel mentiendo, vel vera dicendo, vel etiam simul utendo aliquibus eorum in eodem tempore:" "All these things it is lawful to bring to pass by persuasion, or by force, by doing injury or harm there where we are to do revenge, by doing that which is just, or by telling that which is true, or by lying, or by doing any one or more of these together."—"Hæc autem omnia, et quomodo oporteat uti unoquoque eorum,

[l] L. Pactum, ff. de Pact. [m] S. Matt. lib. 1. cap. 13.

cum Græci accepissent à Moyse, non parvam accepere utilitatem;" "When the Greeks received all these things from Moses, and how they were to use any one and every one of these, they received no small advantage."

20. In this case, all the prejudice which the question is like to have, is in the meaning and evil sound of the word 'lying;' which because it is so hateful to God and man, casts a cloud upon any thing that it comes near: but lying (which St. Basil calls "extremam malitiæ lineam," "the extremity of malice," which St. Ephrem calls "the rust of conversation") is, indeed, an enemy; but in war, so it should be; only in peace, and contracts, and civil conversation, it is intolerable. In war it is no lie, but an engine of war, against which the enemy is to stand upon his guard: and if a man may falsify a blow, much more may he falsify a word; and no justice, no promise, no charity, no law, restrains the stratagems in a just war; they which may be destroyed, may be deceived; and they may be deceived by false actions, nay by false words, if there be no collateral obligation or law to the contrary; "A just man (saith St. Austin[n]) is to take care of nothing but that his war be just;" that is, by a just authority, and for a just reason. "Cum autem justum bellum susceperit, utrum aperta pugna, utrum insidiis vincat, nihil ad justitiam interest;" "But if it be a just war, it matters not as to the question of justice, whether he overcome by force or by deceit."—'Dolus' and 'perfidia' are extremely different.—"Dolus an virtus quis in hoste requirat[o]?" and, "bonum esse dolum si quis adversus hostem latronemve machinetur," said Ulpian[p]; "Craft against a thief or enemy is good; but not perfidiousness."—"Nullo discrimine virtutis ac doli prosperos omnes laudari debere bellorum eventus," said Ammianus Marcellinus[q]. To bring war to a happy end, you may use force or wit; but at no hand break a promise, or be treacherous.

21. He that desires to see more particulars to the same purpose, may, if he please, see Lipsius's Politics[r] and Adam Contzen[s], together with the excellent examples of great and wise personages in Polyænus and Frontinus.

[n] Qu. 10, 11. in Josue.
[o] Virg. Æn. 2.
[p] Lib. 1. ff. de Dolo Malo.
[q] Lib. 17.
[r] 5 Politic. c. 17.
[s] Lib. 10. Pol. cap. 38. et 46, 47.

(11.) But this is not to be extended to a license of telling a lie of the enemy in behalf of our own country, for fame and reputation, for noises and triumph; and I remember that Poggius upon this account lost the reputation of a good historian.

Dum patriam laudat, damnat dum Poggius hostem,
Nec malus est civis, nec bonus historicus[t].

He was a good citizen, but an ill historiographer, that commended all the actions of the Florentines, and undervalued their enemies.

22. (12.) Princes may not lie for the interests and advantages of government. Not in contracts, treaties, bargains, embassies, and all the intercourses of peace and civil negotiation. For besides it is an argument of fear and infirmity to take sanctuary in the little subterfuges of craft, when they are beaten from their own proper strengths,—it is also a perfect destruction of government and the great bands of society and civil intercourse; and if they be used to fail, no man can be confident of that affirmative which ought to be venerable and sacred up to the height of religion; and therefore the Egyptian law pressed this affair well,—Let all that break their word and oaths, die for it; because they are laden with a double iniquity, "et pietatem in Deos violant, et fidem inter homines tollunt, maximum vinculum societatis," "they destroy piety and reverence towards God, and faith amongst men, which is the great ligature of society." And if princes do falsify their word and lie, their neighbours can have no intercourse with them, but by violence and war, and their subjects none but fear and chance. For princes to lie is the greatest indecency in the world: and therefore Diodorus Siculus[u] tells that the Egyptian princes used to wear a golden chain mixed and distinguished with curious stones, and they called it truth; meaning, that nothing was a greater ornament to a prince, nothing ought to be more sacred, or more remembered.

23. Bodinus says otherwise, and that princes and judges have leave, because sometimes they have necessity, to lie; and of the same opinion was Plato[x], provided it was done for the good of the people. But that which they mean is

[t] Sannazar. 1 Epig. [u] Lib. 2. Antiquit. [x] Lib. 3. de. Rep.

only in affirmations and narratives, in adding confidences or producing fears, in making laws and establishing religions; such as was that of Numa, who when he had a mind to endear to the people those good laws, which he had made, said, that he received them from the goddess Egeria. This may be done against an enemy; and if it be for the good of the people, it hath in it charity and some show of prudence, but not to the bravery and magnanimity of a prince: but however it be in this, it can never be permitted to violate a promise or a treaty, nor yet to tell false in a treaty, for that is against peace and against justice. When there is in it no harm, but all good, as in order to persuade the people to a duty, or to their benefit, they in matters of public life being like children in the affairs of their private, that is, when their need and incapacity of being otherwise governed require it, they may be used as they can, according to that of the Persians, "Sapientes dicunt quod mendacium, beneficium faciens, melius est vero exitium parturiente;" "When a lie does charity, it is better than an uncharitable and pernicious truth:" always supposing, that the lie which serves charity, be not against justice; but when it is in treaties, there a lie does not only disgrace the sincerity of the prince that treats, but is of itself apt to hurt the other; and therefore at no hand to be admitted.

24. The next inquiry is concerning persons criminal, and so for others in proportion.

Question II.

Whether it be lawful to use restrictions and mental reservations, so that what we utter is false, but joined to something within does integrate a truth, and make up a true answer.

25. To this I answer, that this hath no distinct consideration of its own; but whether a mental reservation makes that to be true which would otherwise be a lie. For if it be still a lie, a criminal person may no more speak half-truths than whole lies; for that which is but the half of a true proposition, either signifies nothing, or is directly a lie. And upon this supposition, this question is just to be governed by the measures of the first; and in the same cases in which it is lawful to tell a lie, in the same cases it is lawful to use a mental reservation: for that which is lawful without it, is

also lawful with it; and the mental reservation does not save it harmless, if it be still a lie. That therefore is the question, whether he that speaks a lie, and thinks the other part which makes it a true proposition, speaks truth yea or no.

26. The case is this. When Campian was taken in England, he gave out that his name was 'Butler;' the magistrate inquires, and is so answered: and he gives him his oath, and he swears that his name is so; so much he said; but he added withal to himself, secretly, 'It is my name that I have borrowed, or my name for this time:'—but that was not the question; for he was asked that he might be known, and he answered that he might not be known. And he might as well have said, 'That is my name,' and have added in his thought, 'Not at all,' or, 'Hoc est nomen meum,' and in mind have added, 'Falsum;' and then the case would have been too plain, and too contemptibly ridiculous: like the sycophant in Plautus: "Advenio ex Seleucia, Macedonia, Asia atque Arabia," this was a lie: but he turned aside and spake softly, "quas ego neque oculis neque pedibus unquam usurpavi meis," and so he made up the matter: but he was a liar still: for let the whole be true, yet he speaks but half, and by that half deceives. All that he says is a lie, for the contradictory of it is true; and it is concerning his answer, and the saying, that the question is. It is not inquired whether the man think a lie, but whether he speaks one; and not what it is to himself, for no man can lie to himself, but what this is to him that asks, for to him he lies. And suppose a man should write a proposition, and think the rest, to make it true,—would not all the world say he wrote a lie? What it is in writing, it is in speaking; that which he speaks in the present case is a lie, and for that he is condemned. For if the words are a lie without a mental reservation, then they are so with it; for this does not alter the words, nor the meaning of the words, nor the purpose of him that speaks them.

27. And indeed, this whole affair is infinitely unreasonable; and the thinking one thing, and speaking it otherwise, is so far from making it to be true, that therefore it is a lie, because the words are not according to what is in our mind; and it is a perverting the very end and institution of words, and evacuates the purpose of laws, and the end of oaths, making them not to be the end of questions, and the benefit of so-

ciety, and all human intercourse, and makes that none but fools can lie, none can lie but they which cannot dissemble, that is, they which cannot think one thing and speak another, they which cannot so much as think what is true, or what words would make it true. Certain it is, the devil need not ever tell a lie, and yet serve all his ends. And besides all this, such a person gives the scandal of a lie, and produces the effect of a lie, and does intend the end of a lie, and it is the material part of a lie; only what the man owes to justice, he pays with thinking.

28. But then I consider further, if the words spoken be, of themselves, a lie, and therefore he thinks it necessary by a secret supply of thought to new-mould it into truth: to what purpose is that done? that it may be no lie to himself? or that it may be no lie before him to whom he speaks it? As for himself, he is not concerned in it, but only that he speak truth; but the other is: and if it be a lie without that supplement (for therefore he supplies it secretly), then till it be supplied and made up to him before whom he speaks it, it is a lie to him, to whom it ought to be a truth. If the man be bound to speak truth to the magistrate, let him do it; but if he be not obliged, let him tell a direct lie, for this supplement is but a confessing in conscience that it is a lie; and therefore there is no need of such a dissembling artifice; there is more ingenuity in saying that they are not tied to tell truth: but he that tells a lie, and by his mental reservation says he tells a truth, tells two lies, one practical, and the other in theory; one to the magistrate, and the other to himself.

29. I do not say, that, in all cases, it is unlawful to use mental reservations, even in craftiness and escape. (1.) St. Gregory[y] hath a case in which he affirms it lawful. "Tyrannorum versutiam atque sævitiam quandoque esse pia fraude deludendam, et objicienda eis quæ credant, ut nocendi aditum non inveniant," "To prevent and elude the craft and cruelty of tyrants, they must be sometimes deluded by a pious cozenage; and something must be imposed upon their credulity, that their ways of mischief may be obstructed." And then he adds, this is to be done so, "ut caveatur culpa mendacii; quod tunc bene perficitur, cum illud fit quod asse-

[y] Lib. 6. in 1. Reg. cap. 3.

ritur, sed quod sit sic dicitur, ut celetur; quia ex parte dicitur, et ex parte reticetur:" "when there is nothing told that is false, but yet the matter is hid, because it is not all spoken." Indeed this is one kind of innocent doing it; but this is lawful to be done without great necessity, even for a probable reason: it is nothing but a concealing of some part of the truth, and a discovery of another part, even of so much as will serve our turn. But,

30. (2.) Restrictions conditional are lawful to be used in our intercourses: that is, the affirmation or negation, the threatening or promising of a thing, may be 'cum tacitâ conditione,' 'with a condition concealed;' when that concealment is not intended for a snare, but it is κατ' οἰκονομίαν, a usual dispensation, and is competently presumed, supposed, or understood. Thus God commanded Jacob to preach against Nineveh, "Yet forty days and Nineveh shall be destroyed;" meaning, unless they did repent. Thus we may say, 'I will to-morrow distribute my alms, and will give you a part,' meaning, if you will come for it. So for affirmations: the physician says to his patient, 'You are but a dead man;' that is, unless some extraordinary blessing happen: 'You are in danger;' meaning, if you will not use the remedies prescribed. But in all these cases the condition must not be insolent, undiscerned, contrary to reasonable expectations, impossible, or next to impossible: for if it be such which cannot be understood, the reservation is a snare, and the whole intercourse is a deception and a lie.

31. (3.) If the reservation be not purely mental, but is understood by accidents and circumstances, it is lawful. The shepherd of Cremona that was asked concerning the flock he kept, whether those were his sheep or no, answered confidently, that they were; meaning secretly, not his own possession, but his own charge, and not his neighbour Morone's flock. He said true, though his thought made up the integrity of his true proposition, because it was not doubted, and he was not asked concerning the possession, as not being a likely man to be so wealthy. So the gulde whom you ask upon the road, tells, 'You cannot go out of your way,' meaning, if you follow your plain directions, and be not wilful, or careless, or asleep; and yet he says truth, though he speaks but half, because he deceives none, and is understood

by all. Thus the prophet Isaiah[z] said to Hezekiah when he was sick, "Thou shalt die and not live;" meaning, that the force of the disease is such as to be mortal, and so it stands in the order of nature: and when afterward he brought a more comfortable message, he was not thought a liar at first, because they understood his meaning, and the case came to be altered upon a higher account.

32. (4.) When the things are true in several senses, the not explicating in what sense I mean the words, is not a criminal reservation. Thus our blessed Saviour affirmed that himself did not know the precise day, when himself should come to judge the world; that is, as St. Austin, and generally the Christian doctors, say, as man he did not know it, though being God he did know all things[a]. But, 1. This liberty is not to be used by inferiors, but by superiors only; 2. Not by those that are interrogated, but by them which speak voluntarily: 3. Not by those which speak of duty, but which speak of grace and kindness: because superiors, and the voluntary speakers, and they which out of kindness speak, are tied to no laws in this particular, but the measures of their own good-will; and the degrees of their kindness, of their instruction, of their communication, are wholly arbitrary: but the inferiors, the examined, the speakers out of duty and obligation, are tied to answer by other measures, by their exigencies, demands, understandings, and purposes; and therefore must not do any thing whereby that truth which they have a right and interest to inquire after, may be hindered. The conclusion is this, in the words of St. Gregory[b]; "Sapientia justorum est, nil per ostensionem fingere, sensum verbis aperire;" "The wisdom of just men is to make no pretences for deception, but by words to open the secret of their heart."

Question III.

33. Whether it be lawful to equivocate, or use words of doubtful signification, with a purpose to deceive or knowing that they will deceive; and in what cases it is so.

34. To this I answer as to the former, Where it is lawful to lie, it is lawful to equivocate, which may be something

[z] Isa. xxxviii. [a] Theophylact. in 24. Matth.
[b] Moral. lib. 10. cap. 27.

less than a plain lie: but where it is not permitted to tell a lie, there the equivocation must be innocent, that is, not deceiving, nor intended that it should. And this is that which the Hebrews call, 'corde et corde loqui,' 'to speak dissembling,' 'labiis dolosis,' 'with lips of deceit.' For it is remarkable, that 'corde et corde' signifies 'diligence and sincerity,' when it means 'work or labour;' but it signifies 'falsehood and craft,' when it means 'speaking:' for nature hath given us two hands, and but one tongue; and therefore a duplicate in labour is a double diligence, but in talking it is but a double fraud. Tacitus[c] observes of Tiberius, "Verba ejus obscura, suspensa, perplexa, eluctantia, in speciem composita;" "His words were obscure, broken, interrupted, perplex, and intricate, striving and forced, and made for show and pretences." Now if by artifices you deceive him that trusts you, and whom you ought not to deceive, it is but a lie dressed in another way, and it is all one: for "nec artificioso ingenio, nec simplici verbo oportet decipere quemquam, quia quolibet artis modo mentiatur[d]." So is that solution of this question we are only to consider what equivocal speeches may be used, that is, which of them are no lies: for the rest, they are lawful or unlawful by the measures of the first question; for sometimes equivocation is a lie, and equally destructive of civil intercourse. "Duplex responsio habet effectum simplicis silentii."—You had as good not speak at all, as speak equivocally; for "a double speech is as insignifican tas a single silence."

35. (l.) It is lawful upon a just cause of great charity or necessity to use in our answers and intercourses words of divers signification, though it does deceive him that asks. Thus Titius, the father of Caius, hid his father in a tub, and to the cut-throats that inquired for him to bloody purposes, he answered, "Patrem in doliolo latere:" now that did only signify a little tub, but a hill near Rome, where the villains did suspect him to be, and were so diverted.—Thus we read of a Greek, that, in the like case, hid his brother under a wood-pile; and to the inquisitors answered, 'that he did lie hid ἐν τῇ ὕλῃ somewhere 'in the wood.' Now in these cases, where there is no obligation to tell the truth, any man may

[c] Annal. l. 6. 11. Ruperti, pag. 44.
[d] S. Aug. de Conflictu Virt. et Vitiorum. [e] L. 3. ff. de Rebus Dubiis.

use the covers of truth; especially when in this case it is not a lie: for an equivocation is like a dark lantern; if I have just reason to hold the dark side to you, you are to look to it, not I. If Christian simplicity be not concerned in it, nor any other grace indirectly, certain it is that truth is not concerned: for, "In ambiguo sermone non utrumque dicimus, sed duntaxat quod volumus," said Paulus the lawyer*. Now that part of the ambiguity which I intend it in, is true; I would never else use that way to save my conscience and to escape a lie: so that if nothing else be concerned, truth is safe. But then care also must be taken, that he, who hath right to be answered, be not defeated without his own fault. For,

36. (2.) If I intend to deceive him, it must be such a person whom I have power to deceive; some one that is a child, or a madman, or an incompetent person to judge for his own good, and one that no other way will be brought to do himself good, one that is willing, or justly so presumed. For unless I have power or right to deceive him, I must not intend to deceive him by any act of mine directly.

37. (3.) If it be fit that he be deceived, though I have no right to do it, let him deceive himself; it must be by his own act; to which I may indeed minister occasion by any fair and innocent means. It is fit, that he who, by violence and injury, intends to do mischief to innocent persons, be hindered from it; and there is much good done if an innocent be rescued, and no harm done to the tyrant if he be diverted, and no wrong or injustice if he do deceive himself. Thus if he runs into error by a just and prudent concealment of some truth; if he is apt to mistake my words out of a known and by me observed weakness; if his malice is apt to make him turn all ambiguous words into his own sense that will deceive him; if I know he will listen to my whispers to another person, and watch my secret talk to others; I am not bound to say what will inform him, but what will become my intercourse with the other: in all these and the like cases, if I use my own liberty, I do no man injury. I am not bound to speak words of single signification; if it be sufficient to express my meaning, if it be in the nature and use of the words apt to signify my mind, and to speak that which is true, let him that stands by look to it; I do all that I am

* L. 3. ff. de Rebus Dubiis.

obliged to do by the interest of justice and truth. For in these cases, he that speaks, does but minister occasion to him that is mistaken; like him that represents artificial sights before the eyes, or as the rainbow in the clouds is occasion of a popular error, that it is full of colours.

38. (4.) But then this must be so used, that the amphibology or equivocation be not insolent and strange, but such as is usual in forms of witty speech. For then he who uses them, does no more deceive his hearer, than he that speaks obscurely or profoundly is the cause of error in the ignorant people. Thus if Caius promise to pay to Regulus a hundred Attic drachms, he is tied to do it, if he does owe it, else not: for if he owes none, he must pay none, and he did not promise to give him any thing. For if a meaning be clearly contained in the word spoken, it may be made use of to any just and reasonable advantage; especially if that word ought or was likely to have been understood by the concerned hearer. But this may not be done in fraud and to the diminution of any man's rights. Asper buys corn and linen of Camillus, who is newly come from Egypt: they agree together, that Camillus shall receive ten talents; but that he shall give him as a free gift half of it back again; and call the ten talents the just price, and the telling it a just solution. If Asper sells his linen by the proportion of the great price told over, he is a cozener; and uses the words of 'price,' and 'payment,' and 'gift,' fraudently: the amphibology might have been used to ends of justice and reason, but not of knavery and oppression.

39. (5.) And this must also be upon just cause. For if a magistrate sends to inquire for Titius, and the officers ask 'an Titius sit domi,' 'if he be at home:' to him we may not answer, 'Titius non est domi,' 'He does not eat at home;' meaning the word 'est' in a sense less usual, to deceive him in the more common, who ought not to be deceived at all: but to save a man's life from violence and injury it may be done. This way hath been sometimes used to vile persons! Thus Cleomenes, having made truce with his enemies for thirty days, used to plunder his country in the night; and Labeo having agreed to give up half his navy to Antiochus, cut his ships in pieces, and made them good for nothing. The like stories are told of Alexander, of the Locrians, of

Otho Moguntius. But it was a barbarous thing of Pericles, who promised safety to the enemy if he would lay aside his iron, that is, their arms, as all the world understood it, and as the nature of the thing did signify: when he had done so, he fell upon the whole body of them, and cut them in pieces, showing for his excuse, the iron buttons that they had upon their coats. Such frauds as these are intolerable in their event, and evil in their cause, and detested by all good and just men. To this purpose I remember a worthy story told by John Chokier, of a Spanish governor of a town in Milan, who kept a noble person prisoner with hard usage, and when his lady came to petition for his liberty, promised to deliver her husband to her, if she would let him lie with her. The poor woman being wearied with his temptation and the evil usage of her husband, consents and suffers it. When the governor had obtained his lust, he would also satisfy his anger too; and kills her husband, and to verify his promise, gives her husband to the lady, but newly murdered. The lady complains of this, and tells her sad story to Gonzaga the Spanish general: he finds it to be truth, and made the lady this amends. He commands the governor to marry the lady, that by his estate she might be recompensed for the dishonour: and then, the same day, causes the governor to lose his head to pay for his dishonourable falsehood and bloody lie. It was a justice worthy of a great prince; and the reward was justly paid to such a cruel equivocation. This was "subdolus congressus," 'a crafty treaty,' "quo nil turpius," said Antoninus the emperor, "Nothing is baser and more dishonourable than it."—Thus did Darius to the noble Œbazus the father of three brave sons, and Xerxes to Pythius the father of five; they killed what they promised to leave with the father, adding to their cruelty the reproach and scorn of cozenage. A man hath a right to use what words he will, according to the received use; but he must not use them to evil purposes: and a man may go a little from the more common use to that which is rare, so it be within the signification of the word, provided there be just cause; that which hath good in it to some, and no injury to any.

40. (6.) There is between lying and equivocation this only difference, that this may upon less necessity and upon more causes be permitted than lying. For provided that

these measures now described, which are the negative measures of lying, be observed; if a man speaks doubtful words and intends them in a true sense, he may use his liberty; always provided that he use it with care, and to the reputation of Christian simplicity. In arts and sciences, in jest and intercourses of wit, in trial of understandings and mystical teachings, in prudent concealments and arts of secrecy, equivocal words may be used with more freedom. "Solvite templum hoc," says Christ, "Dissolve this temple," viz. of my body, "and I will raise it up in three days."—So did that excellent confessor in Eusebius[f], to Firmilianus asking of what country he was, he answered, that Jerusalem was his country; "seorsim apud animum suum ita divinitus philosophatus," "privately in his mind speaking divine mysteries," says the historian. This was well and innocent, because an equivocal speech hath a light side as well as a dark: it is true as well as false, and therefore it is, in its own nature, innocent; and is only changed into a fault, when it is against justice and charity, under which simplicity is to be placed.

41. Under these measures are to be reduced those little equivocations which are used sometimes in craft, but most commonly in wit; such as are, to answer by anagrams, so as to tell a true name but disguised by transposition of letters and syllables, or to give the signification of a name in other words. Thus if a man whose name is Dorotheus, calls himself Theodorus,—for Nicolaus, Laonicus,—for Demonicus, Nicodemus; it is an equivocation or an art of deception, but such as may be legitimated by the cause: but if the inquiry be in a serious matter, the answer must be serious and material, true and significative to the purposes of law, and justice, and society. And therefore if Nicodemus had been interrogated by Pilate in a serious cause, he might not have said his name was Demonicus; and the reason is, because he might not have concealed it. But when it is lawful to conceal it if we can, this is a just way of doing it; for it is no lie in itself, and can be made to do or to minister to that good which is intended. Thus in the book of Tobit we find that the angel Raphael called himself Azarias the son of Ananias, which indeed is the name of his office, or the rebus, the meaning of his present employment, that is, 'auxilium

[f] S. lib. Hist. cap. 22.

Domini,' 'filius nubis Domini,' 'the aid of the Lord,' 'son of the Lord's cloud;' meaning that he was sent from the Lord in a cloud or disguise to be an aid and a blessing to that religious family. And he that called Arsinoe Ἥρας ἴον 'Juno's violet,' kept all the letters of the name right, and complimented the lady ingeniously. But these are better effects of wit than ministries of justice; and therefore are not to be used but upon great reasons, and by the former measures, when the matter is of concernment.

Question IV.

42. Whether it be lawful by false signs, by actions and pretences of actions, to deceive others for any good end; and in what cases it is so.

43. To this question I answer in the words of Aquinas[g], because they are reasonable and pious: "Ad virtutem veritatis pertinet, ut quis talem se exhibeat exterius per signa exteriora qualis est; ea autem non solum sunt verba, sed etiam facta:" and a little after; "Non refert autem utrum aliquis mentiatur verbo, vel quocunque alio facto," "It is all one if a man lies, whether it be by word or by deed."—A man may look a lie, and nod a lie, and smile a lie.

44. But in this there is some variety: for, 1. All dissembling from an evil principle and to evil purposes is criminal. For thus Tertullian[h] declaims bitterly against those ladies, "who (says he) being taught by the apostate angels," "oculos circumducto nigrore fucare, et genas mendacio ruboris inficere, et mutare adulterinis coloribus crinem, et expugnare omnem oris et capitis veritatem," "besmear their eyebrows with a black semicircle, and stain their cheeks with a lying red, and change the colour of their hair into an adulterous pretence, and drive away all the ingenuity and truth of their faces."—And Clemens Alexandrinus is as severe against old men, that, with black-lead combs, put a lie upon their heads; and so disgrace their old age, which ought to be relied upon, believed, and reverenced for truth. And it was well said of Archidamus to a man of Chios who did stain his white hairs with black and the imagery of youth, "the man was hardly to be believed, when he had a lie in his heart, and bore a lie upon his head."—These things proceeding from pride and

[g] 2. 2æ. q. 3. art. 1. [h] Lib. de Discipl. et Habitu Virg.

vanity, and ministering to lust, or carried on with scandal, are not only against humility and sobriety and chastity and charity, but against truth too; because they are done with a purpose to deceive, and by deceit to serve those evil ends. To the same purpose was the fact of them, of whom Dio Chrysostom speaks[i], who knowing that men were in love with old manuscripts, would put new ones into heaps of corn and make them look like old: such also are they who, in Holland, lately would exactly counterfeit old medals, to get a treble price beyond the value of the metal and the imagery. These things and all of the like nature are certainly unlawful, because they are against justice and charity.

45. (2.) But there are other kinds of counterfeits, such as are gildings of wood and brass, false stones, counterfeit diamonds, glass depicted like emeralds and rubies, a crust of marble drawn over a building of coarse stone[k]; these are only for beauty and ornament, and of themselves minister to no evil, but are pleasant and useful: now though to sell these images of beauty for real be a great cheat; yet to expose them to be seen as such, and every man be left to his liberty of thinking as he please, and being pleased as he can, is very innocent.

46. (3.) There is a third sort of lying or deceiving by signs not vocal: that is, the dissembling of a passion, such as that of which Seneca[l] complains in the matter of grief, which is the simplest of all passions; but pretended by some without truth to purposes not good. "Quotusquisque sibi tristis est? clarius, cum audiuntur, gemunt: et taciti quietique, dum secretum est; cum aliquos viderint, in fletus novos excitantur."—So did Gellia in the epigram,

> Amissum non flet, cum sola est, Gellia patrem:
> Si quis adest, jussæ prosiliunt lacrimæ[m].

They are full of tears in company, but in their retirements, pleased well enough. Now things of this nature are indifferent; but are good or bad according to the cause or the design. "Mourn for the dead," saith Ben Sirach, "and that a day or two, lest thou be evil spoken of."—That end is honest; and therefore to mourn in solemnity is good, if we can-

[i] Orat. 21. [k] Vide Senecam Epist. 115. §. 8, 9. Ruhkopf. vol. 3. p. 365.
[l] Epist. 99. §. 15. Ruhkopf. vol. 3. p. 258. [m] Martial. i. 34.

not mourn in passion: and the laws enjoin to a man and woman respectively 'annum luctus,' 'a year of solemn mourning;' all which time, it is not supposed, the passion should be troublesome and afflictive. Thus we find David pretending madness before Achish the king of Gath; it was for his life: and we do not find any of the ancient doctors blaming the dissimulation.

47. (4.) But that which is here the principal inquiry is, whether signs not vocal, which have in them ambiguity, and may signify several things, may be used with a purpose to deceive. And to this the answer is the same with the former in the case of equivocation, with this only difference; that as there is some more liberty in the use of equivocal words, than of a simple lie; so there is some more liberty yet in equivocal actions than in words, because there may be more reasons for such dubious actions than for dubious words, and they are not so near, so usual[n], so intended significations of our mind, nor ministries of intercourse and society. But where they are taken so, they are to be governed by the same rules; save only that a less necessity may be a sufficient legitimation of such dubious signs: concerning which, besides the analogy and proportion to the former rules, there is no other measure but the severities of a good and a prudent man taking into him the accounts of Christian simplicity and ingenuity.

48. I have only one thing to add in order to practice. There is a liberty in the forecited cases there, where there is a necessity, and where there is a great charity. For in these cases it is true what St. Chrysostom says[o], "Fraudis quidem magna vis modo ne fraudulento animo fiat: quam ipsam tum ne fraudem quidem nominandam putaverim, verum œconomiam quandam potius ac sapientiam artemque, qua possis è mediis, iisque imperviis, desperatarum rerum angustiis difficultatibusque, correctis et emendatis animi vitiis, evadere:" "There is a great use of artifices in our words and actions, when we are hard put to it in desperate cases and extremest difficulties, and then these arts are not indeed deceptions, but just escapes." But yet this I say, that it is not safe to use all our liberty; because when it is practised freely, we oftentimes find ourselves ill judges of the necessity. And how-

[n] Vide Aquinat. in 3. lib. dist. 38. art. 3. ad 5. [o] Lib. 1. de Sacerdot.

ever it be, yet it is much more noble to suffer bravely than to escape from it by a doubtful way; 1. For the love and honour of simplicity, 2. For the endeavours of perfection, 3. For the danger of sin, 4. For the peril of scandal. And it was bravely done of Augustus Cæsar, who when he had promised ten thousand sesterces to him that should bring Corocotta, a famous Spanish thief, alive into his presence; Corocotta himself came and demanded the money, and had it, and he was spared besides: he escaped for his wit and confidence; but had the money 'pro fide Cæsaris,' 'according to the faith and nobleness of Cæsar's justice:' for he might have made use of the ambiguity of his words to have kept the money, and hanged the thief; but he thought it nobler to do all that he could be thought to have intended by his words. Ὁ μεγαλόψυχος, παῤῥησιαστικὸς καὶ ἀληθευτικὸς, says Aristotle[p], "The brave and magnanimous man does not sneak, but speaks truth and is confident."

49. It cannot be denied what St. Clemens Alexandrinus said, Ἐπὶ τῶν πλησίον ὠφελείᾳ μόνῃ ποιήσῃ τινα, ἃ οὐκ ἂν προηγουμένως αὐτῷ πραχθείη, "A good man will, for the good of his neighbour, do something more than he would do willingly and of his own accord:" yet when it is his own case, it is better to let go his liberty than to run a hazard. Sarah did lie, and she was reproved by the angel; Abraham did so too, says Tertullian; "Saram sororem suam mentitus est," but he was reproved by Abimelech: Jacob did lie to his father, but he is not commended for it; and Rachel did dissemble, but she died in child-birth, and it was occasioned by that, say the Jewish doctors: Simeon and Levi destroyed the Shechemites by a stratagem, but they troubled the house of Israel by it: Tamar deceived Judah, but she played the harlot in deed as well as in words. And concerning those worthy persons mentioned in Scripture, who did lie or dissemble, the Christian doctors have been put to it to make apologies and excuses, and justifications for them, and are not yet agreed how to do it. St. Basil and St. Chrysostom are two examples of several proceedings. St. Basil always bore his heart upon his hand, and shewed it to every one that was concerned. St. Chrysostom used craft against the simple, and fraud against him that spoke all things in sim-

[p] Lib. 4. Eth. cap. 3. Wilkinson, p. 157.

plicity. Chrysostom was forced with laborious arts [q] to excuse and justify it, and did it hardly: but St. Basil had no scruple concerning his innocence; what he had concerning his prudence and safety does not belong to the present question. But of this last particular I have given larger accounts in a discourse [r] on purpose.

50. The conclusion is this, If a man speaks a downright lie, he can very hardly be innocent: but if by intrigues of words and actions, "per involucra" (as Cicero [s] calls it),—"per orationem intortam" (as the comedy), "by covers of words," and 'by crooked speeches,' a man have intercourse, he had need be very witty to be innocent; according to the Hebrew proverb, "If a man have wit enough to give cross and involved answers, let him use it well;" if he knows not how to do it well, let him hold his peace. It was but a sneaking evasion of St. Francis, when the pursuers after a murderer asked if the man came that way; 'No,' saith the friar, thrusting his hand into his sleeve, 'he came not here.' If a man's wit be not very ready and very clear, while he thinks himself wise, he may become a vain person. The devil, no question, hath a great wit, and a ready answer; yet when he was put to it at his oracles, and durst not tell a downright lie, and yet knew not what was truth many times, he was put to most pitiful shifts, and trifling equivocations, and arts of knavery; which when they were discovered by events contrary to the meaning which was obvious for the inquirers to understand, it made him much more contemptible and ridiculous than if he had said nothing, or confessed his ignorance. But he that does speak, and is bound to speak, must speak according to the mind of him with whom he does converse,—that is, so to converse, that by our fault he be not deceived against his right, against justice, or against charity, and therefore he had better in all things speak plainly: for truth is the easiest to be told; but no wit is sufficient for a crafty conversation.

[q] Vide in fine lib. 1. de Sacerd. [r] Serm. of Christian Simplicity.
[s] Orat. 1. c. 35. n. 161. Harles. p. 104.

RULE VI.

It is not lawful for private Christians, without public Authority, to punish Malefactors, but they may require it of the Magistrate in some Cases.

1. In the law of nature it was permitted: but as the world grew older, and better experienced, and better instructed, it became unlawful and forbidden; in some places sooner, in some places later. The Ephori among the Lacedemonians, might kill criminals extra-judicially; and Nicolaus of Damascus relates, that, amongst the Umbrians, every man was the revenger of his own injuries: for till by laws men were defended, they, by revenges and retaliation, might drive away the injury as far as was necessary. But because when a man is in pain and grief, he strikes unjustly and unequally, and judges incompetently, laws were made to restrain the first license, and to put it into the hands of princes only, because they, being common fathers to their people, were most likely to do justice equally and wisely. "Idcirco enim judiciorum vigor jurisque publici tutela videtur in medio constituta, ne quisquam sibi ipsi permittere valeat ultionem," said Honorius and Theodosius; "That no man might avenge himself,—laws, and judges, and tribunals, were appointed for public justice."

2. But for this, provisions at first could not be made so generally, but that some cases would happen, and some gaps be left open, which every man must stop, and provide for as well as he could. Thus we find that Phinehas, when he saw God was angry with the sons of Israel about the matter of Moab, himself, to divert the anger that was already gone forth, smote Zimri, a prince among the Simeonites, and his fair mistress in his arms, and killed them in their crimes. From his example many zealots among the Jews took liberty to kill a man that sinned apparently. So Matthias killed a Jew, that offered sacrifice according to the manner of the Greeks; and the people killed three hundred of their countrymen upon the like account. But this quickly grew into excess and irregularity; and therefore when our blessed Lord was zealous for the honour of the temple, he went no further

but to use a little whip to affright them from their profaneness.

3. And yet, in some cases, God[t] permitted private persons to be executioners; as in case a Jew tempted his child, or brother, or neighbour to idolatry, the tempted person might kill him, without delating him to the judge; and in a cause of blood, the next of kin might kill the manslayer, if he overtook him before he took sanctuary. But here the cases were such, that the private person was not judge, but by leave from God, was executioner upon the notoriety of the fact: for although for a dead person his nearest relation might with his own hand take vengeance; yet if himself was wounded, he might not, but by the sentence of the judge, say the doctors of the Jews; because he ought not to be judge, where he could hardly be moderate.

4. In the sea, and in desert places, where there can be no appeals to judges, every man is executioner of the sentence of the law of nations. Thus we find that Julius Cæsar pursued the pirates in the Mediterranean and Adriatic seas; and because the proconsul would not, he gathered a sudden navy, and overtook them, and hanged them upon the mainyards of their own vessels. Thus the wild Arabs and Circassian thieves,—that live in vast places, and under no government, being public enemies of mankind, and under no laws, nor treaties or communications of peace,—may be killed by every one that is injured and spoiled by them, when he can do it. To this agrees that of Tertullian; "In publicos hostes omnis homo miles est;" and that of Democritus: Λῃστὴν πάντα κτείνων τις ἀθῶος ἂν εἴη, καὶ αὐτοχειρίᾳ, καὶ κελεύων, καὶ ψήφῳ, "He that kills a thief and a robber with his own hand, or by command, or by consent, is innocent."

Εἶτα πάθοι τά κ' ἔρεξε, δίκη κ' ἰθεῖα γένοιτο[u].

But this is to be understood of the permission in the law of nature.

5. For in Christianity, men are not easily permitted to touch blood; not hastily to intermeddle in the causes of blood; not to give sentence for the effusion of it: these things are to be done with caution, and a slow motion, and after a loud call, and upon a great necessity, because there

[t] Deut. xiii. 9. [u] Hes. frag. 69. Gaisford. p. 194.

are two great impediments; the one is the duty of mercy, which is greatly required and severely exacted of every disciple of Christ; and the other is, that there is a soul at stake when blood is to be shed, and then they are told, that as they judge, they shall be judged,—as they measure, it shall be measured to them again. And therefore criminal judges have a tender employment, and very unsafe, unless they have the guards of a just authority, and a great mercy, and an unavoidable necessity, and public utility, and the fear of God always before their eyes, and a great wisdom to conduct their greatest dangers.

6. That which remains and is permitted in Christianity is, 1. The punishment of reprehension, of which every wise and good man may be judge and minister; for as St. Cyprian said, that 'every bishop is a bishop of the catholic church,' that is, wherever he chance to be, he must not suffer a soul to perish if he can help it, but hath right every where to minister to the necessities of souls, who are otherwise destitute, —and every where to pray in private, to bless, to absolve dying persons, to supply the defects of a widow and desolate church; so every good man hath power to punish a base and vicious person by severe and wise animadversions of reproof. For "a wise man is never a private man,"—said Cicero; and Nasica, and Cato, and Fabius, and Lollius, were in authority like perpetual consuls, always in power over a vicious man.

7. It is not against the laws of Christianity, that parents, and tutors, and masters, and governors, should punish criminals, that is, such as are subject to them, and by such punishments as are permitted by law, and by such measures as are agreeable to the just and charitable ends[x] of their respective governments, and by the analogy and proportions of Christian mercy and clemency: in the execution of which punishments, there need no other laws be given but what are dictated by the mind of a charitable, dispassionate, and a good man. But then, in these governments, there is more liberty than in any other but the supreme: for a personal injury done to a father or a tutor, may be punished by the

[x] Jubet Deus ut manus nostras super minores semper habeamus, hoc est, ut peccantes eos assiduis verberibus corrigamus, ne amore inutili et indulgentiâ nimiâ educentur ad malum, et ad vitia nutriantur. Lactant. lib. 6. Instit.

father or tutor respectively, and so also it may by the supreme power, "Quum dignitas auctoritasque ejus, in quem est peccatum, tuenda est, ne prætermissa animadversio contemptum ejus pariat, et honorem levet," said Taurus the philosopher in A. Gellius[y]. An injury done to a superior is a contempt of his authority, as well as injurious to his person: and if it be not punished, will soon disorder the superiority. But then this must be wholly for emendation; and though anger may be the instrument, yet charity must be both the measure and the end.

8. (3.) When the law hath passed a sentence, and given leave to any subject to be executioner, he that is injured, may do it. But this is to be understood in one case only that concerns the subject, and one that concerns the prince. 1. For if the prince commands that whoever finds such a person, shall smite him to death if he can, every man is bound to it, if the law be just; as in the case of treason, or deserting their military station, it hath sometimes been decreed. "In reos majestatis," "Against traitors" every man is a soldier, says Tertullian; who affirms it also concerning all public enemies. 2. The other case, which relates to the advantage of the subject, is, when the execution of the public sentence is necessary to be done speedily for the prevention of future mischiefs. Thus Justinian[z] gave leave to every man to kill the soldiers that came to plunder; for in that case there was no staying for solemnities of law, and the proceedings and method of courts; "Melius enim est occurrere in tempore quam post exitum vindicare. Vestram igitur vobis permittimus ultionem, et quod serum est punire judicio, subjugamus edicto, ut nullus parcat militi, cui obviare telo oporteat ut latroni." This which the law calls a revenge, is but a mere defence, it is a taking the mischief before it be intolerable; and therefore this will be the more out of question: for certainly if some punishments are lawful, all necessary defences are much more; this only excepted, that the degree of this is excessive and uncharitable, and therefore ought not to be done, but in those cases where the evil, likely to be suffered by the innocent, is intolerable, as if the plunder be the undoing of a man and his family, and will cause them to perish, or to be extremely miserable; and therefore Ulpian said well,

[y] vi. 14. Oiselii, p. 387. [z] Cod. Rubr. Quando Liceat se sine judice vindicare.

"Furem nocturnum si quis occiderit, ita demum impunè feret, si parcere ei sine periculo suo non poterit;" "Though the law permits a man to kill a night-thief, yet he may not do it if he can secure himself without it: but when to spare the thief, will be his own undoing, then he may. For it is true which was said of old,

Res omnes conditæ famulantur vitæ humanæ;

And again,

Nobilissimum est quod orbis habet, humana vita.

Nothing is fit to be put in balance to the life of man; and therefore when a man's life and a man's goods are compared abstractly, these are extremely outweighed by that; and therefore, for little and tolerable losses, it were well if the laws would appoint lesser punishments than death. But when it is considered, that a great loss makes a man and all his family live a miserable life, and men willingly venture their lives to save such great portions, the laws that put such thieves to death, are very justifiable. And it is observable that when God in Moses' law appointed a mulct of money upon thieves, it was supposed to be in such robberies, where the thief was able to restore fourfold. Add to this, that if our laws did provide that stolen goods should be restored, they would less need to give leave to the true man to kill the thief. But now that he is the more likely to be undone, because no restitution is to be made him, he may, in the case of such great spoilings, be better allowed to be the executioner of the sentence of the law to prevent his ruin, and to defend his right. But it were much better if he would not at all use this liberty.

9. (4.) But when the evil is past, if the law permits the execution of her sentence to the injured person; it is to be supposed that there is only an indulgence to the grief of him that is wronged; and therefore if he kills the injurious man, he is indemnified in law, but not quitted in conscience. Thus when the civil laws[a] of old, and, at this day, the Spanish laws permit the wronged husband to kill the adulterer, it is lawful; that is, it is not against justice, and therefore the law cannot punish it: but because it is extremely against charity, his confessor ought not to absolve him withour re-

[a] L. Gracchus C. ad legem Juliam, de Adulteriis.

pentance and amends; for the gospel does not approve it. The reason is, because if the injury be done, the execution is merely revenge, without the mixture of any good thing to legitimate it. Now if the law does it by her ministers, it is παράδειγμα, 'an example,' ἵνα ἄλλοι πρόνοιαν ποιῶνται καὶ φοβῶνται, as Demosthenes's expression is, "that others may be afraid, and not be tempted by impunity." But if the man does it by his private hand, there is in it less of observation and exemplarity; or if there were not, yet there were less intended; and therefore the private executing hand is not so innocent: Μὴ ἑαυτοὺς ἐκδικοῦντες, saith the Apostle [h], "We must not avenge ourselves:" this can hardly be reconciled with such executions. There is only this allay in it, that if the wronged husband can, no other way, prevent his dishonour and his wife's sin or continuance in it, if the law permits it to him, it may be supposed to be done for prevention not for revenge; and if it be so, as it is supposed, it hath many degrees of excuse, and some of lawful, but nothing commendable; for nothing can reconcile it to charity, because, as I observed before, there is a soul in the way which ought strangely much to be regarded. Nay, there are two souls: for it was rarely said by Pythagoras, as Jamblichus relates. Πολλῷ μᾶλλον ἀδικεῖσθαι δεῖν, ἢ κτείνειν ἄνθρωπον· ἐν ᾅδου γὰρ κεῖσθαι τὴν κρίσιν, "It is better to suffer the injury than to kill the man: for after death there shall be a judgment;" he that did the wrong, shall be punished; and he that spared him, shall be rewarded.

10. (5.) But if the criminal be of so desperate an impiety that he seems incorrigible, and of a long time hath seemed so (for that is the best way to prove him so), then it is lawful for a private hand to be the executioner of the public sentence; but he that is injured, ought not to do it. Not that it is murder, or indirectly unlawful in the precise action: but that it can hardly be quitted from revenge; and it will be hard for any man to be so good as not to have just cause to suspect himself, if he be so bad upon the mere permissions of law to thrust his hand into his brother's heart. Other persons may do it out of zeal or love of their country's good. The civil law gives leave "exercendæ publicæ ultionis adversus latrones, desertoresque militiæ," "of executing the

[h] Rom. xii. 19.

anger of the law against fugitive soldiers, and common robbers:" he that had not been robbed by them, might better do it than he that had: for it being permitted "pro quiete communi," 'for the public peace,' he is a good patriot that honestly and justly ministers to that end alone; but he that suffered by them, had need be an angel, if he does not spoil that good end by the mixture of revenge; and if he be an angel, he will find a better employment than to kill a man, where it is not commanded, and where it is not necessary.

11. (6.) Some affirm, that princes are never to be reckoned to be private persons, when they proceed according to the sentence and meaning of the law, though they do proceed 'brevi manu' as the style of the law is; and do not proceed by the methods and solemnities of law by reason of disability to do it. Thus if a man grow too hard for the laws, the prince must send soldiers to him, not serjeants, if the case be notorious and it be a public sentence: and the Lord Mayor of London did strike Wat Tyler, though he was not convicted in law, nor sentenced by the judges. Upon this account, the King of France offered to defend the killing of the Duke of Guise: concerning which I cannot give accounts, because there might be in it many secrets which I know not. But if there wanted nothing but solemnities of law, and there wanted power to suppress him by open force, and that it was just and necessary that he should die, and by law he was guilty of it, if there was any thing wanting which should have been done, he that died was the cause of it, and therefore to him it was to be imputed. But supposing what these men affirm to be true (concerning which I shall affirm nothing); yet this is very rarely to be practised, because it is seldom lawful, if ever it be, and not without the concurrence of very many particulars, and is very easily abused to extreme evil purposes; as in that intolerable and inhuman massacre of Paris, which all generations of the world shall speak of with horror and the greatest detestation. But concerning the thing itself, that which the lawyers say is this; "Generale edictum, accedente facti evidentiâ, habet vim latæ sententiæ;" "When a law is clear, and the fact is evident, the sentence is already past:" and therefore some of them are apt to say, To do the same thing in a chamber is not murder, if it be justice when it is done upon a scaffold; for the same de-

merit in the criminal and the same power in the supreme, is an equal cause and warranty of the execution. And since it is cheaper to employ a physician than an army, and there is less prejudice done to the public by such a course, since the state of Venice kills upon suspicion, and there are some things known which cannot be proved, and cannot be suffered, and since we see that solemnities of law, like thin aprons, discover more shame sometimes than they hide, and give more scandal than they remove; these men are more confident than I am: for they dare warrant this course which I dare not. But he that will adventure upon this, must take care that it be done; 1. By a competent authority; 2. Upon a just cause; 3. For a great necessity; 4. According to the intent and meaning of the law; 5. It must be 'in summo et mero imperio,' by one that is absolute and supreme; 6. It must be upon notoriety of fact; 7. When there is no scruple of law; 8. And if after all this there be no scruple in conscience; 9. Nor yet any other means of securing the public; 10. And the thing have in it as great charity to the public, as there is in it justice to the particular; 11. And that the war be not 'justum bellum,' that is, between supreme powers; 12. Nor yet any treaty or promise, faith or covenant, to the contrary between the supreme and the inferior offending; 13. Nor yet there be a scandal of greater mischief than can be procured by the unsolemn proceeding; 14. Nor is done 'refragante judicio procerum, et sententiis juris prudentum,' 'against the earnest advice of prudent and grave persons,'—which if it happen will arrest the resolution, and give check and consideration to the conscience: then it is supposed by many, that there may be reason enough to forbear what cannot be used, that is, the solemnities of law, which are the methods of peace, or to be expected in a state or time of war. And by this time it will be so hard to do it justly, that it will be better to let it alone. For after all these cautions and provisos it is not permitted to assassinate or privately to murder the criminal, but to proceed by open force or by avowed manners of justice, though they be not solemn, and the common ways of peace; that is, they must be owned in public, and asserted by law, either antecedently or 'ex post-facto.' An example of the first way is frequently seen in France; where the fugitives of law are proceeded against in their absence, and

executed 'in effigie;' and in the states of Italy against the banditti: and of the second way examples have been seen in the manifestos of some princes, when they have been put to such extrajudicial and private ways of animadversion. But these things happen not but in such places where princes are more absolute, and less Christian, or that the subject transgresses by power.

12. (7.) Upon the like account it hath, in some ages of Christianity itself, but in many ages of gentilism, been permitted that by single duel men prove their innocence and oppress the supposed criminal:

——— puroque pioque duello
Quærendas res censeo ———

said one of the Roman senators to Ancus Martius. Now concerning this I shall not need to say much; because now long since all Christian princes and states, and all churches and ecclesiastical persons, have condemned it as a grievous crime, upon these two accounts: 1. Because it is a tempting God by ways which he hath never allowed, it is a lottery that he never gave warrant to: and upon this account it was, that Pope Nicolas I.[c] forbade the emperor Lotharius to try his wife's suspected chastity by the combat of two champions: "Cum hoc et hujusmodi sectantes, Deum solummodo tentare videantur;" and to the same purpose Pope Celestine[d] and some others did forbid it. 2. Because the innocent person is exposed to equal danger with the criminal, and hath been oftentimes oppressed; as it happened in the case of William Catur[e] an armourer in Fleet-street, who being by his servant John David falsely accused of treason, was yet slain in Smithfield by his perjured adversary: and then the people have accepted the event as a divine testimony, which in this case being to a lie and to the false part, must needs be infinitely dishonourable to God. But if it were not for these and some other evil appendages, and if the innocent person were sure to prevail, and the law made the private hand the minister of justice, who only can tell the secret, and therefore is the surest judge,—there is no peradventure it might as well be done by that hand as by any other. But this cannot

[c] Caus. 2. qu. 5. cap. 22. Monomachiam. [d] Decret. tit. de Vulgari Purgat.
[e] Stow's Annals, 25 of Henry.

be reduced to practice at all; but in the whole conjunction of affairs is highly criminal and intolerable. In Spain we find that a duel was permitted between two eminent persons ('los infantes de lara,' the Spaniards call them) only upon the accusation of an injury done to some ladies, the daughters of Rodrigo de Bibar; and the victory was gained by him that was innocent: and another by the men of Zamora in the case of the death of King Sanctus; and quickly they found advocates and defenders. And Vasquez affirms it may as well be permitted by law, as that an injured husband should kill the adulterer. But besides the reasons formerly alleged against such private executions of an uncertain sentence,—because they have no foundation in justice or charity, neither in public or private good, they are deservedly banished from all Christian countries.

13. But this is to be understood only of judicial duels, whether criminal or civil; for as for duel extrajudicial and private, it is so unjust, so uncharitable, and so unreasonable, so much against all laws of God and man, so infinitely against the piety of him that survives it, so infinitely against the hopes of him that dies in it, that nothing can excuse it: but even duels which are permitted by laws, ought not to be so, and are not permitted by religion; excepting only when the duel is a 'compendium' of war, and is designed to do justice, and to prevent the greater issues of blood.

14. Thus the Romans and Albans determined their wars by the fight of three champions of each side; and the Curiatii being subdued by Horatius Cocles, the city Alba came into subjection to Rome. David and Goliah fought for their respective countries; but the duel did not determine it directly, but only discouraged the conquered party. Upon the same account Clovis, the first Christian king of France, offered to fight with Alaric prince of the West Goths; "Nobilissimo pari fortunam utriusque gentis decreturo," said Paulus Æmilius: and Guicciardini[f] tells, that when the French and Italian armies were ready to join battle, the fortune of the day was committed to thirteen champions on each part. Camden[g] reports, that when the Saxons and Danes grew weary of the so great effusion of blood caused by their daily wars, "misso in compendium bello, utriusque

[f] Lib. 5. Hist. Ital. [g] In Dobunis.

gentis fata Edmundo Anglorum et Canuto Danorum regibus commissa fuerunt, qui singulari certamine de summa imperii in hac insula depugnarunt." Edmund and Canutus fought in a little island by Gloucester, and drew the war into a 'compendium,' and saved the lives of their subjects by hazarding their own. William, duke of Normandy, offered this to Harold before the battle in Sussex: and King John of England to Lewis of France, by deputed champions. And Richard II., of England, challenged Charles VI., of France, concerning the title of the French crown. And Pope Martin allowed the duel between Charles of Anjou and Peter of Arragon to determine the question concerning the kingdom of Sicily. These indeed are great examples, and are then only just when the war is just, and on that side only on which it is just. "Hæc est necessitas quæ bellum justificat (saith Baldus [h]) cum ad bellum extremo loco confugitur," 'When the war is necessary and the case is extreme, the necessity makes it just, when the contrary evil is intolerable:' and when things are come to this pass, then it is true what Bodinus says; "Non interest quo numero adversus hostes decernatur," "It matters not by how few the war be ended." Such a duel is a just war, as all war anciently was called a duel,

Græcia Barbariæ lento collisa duello [i].

All Greece and Barbary fought a duel; it is 'duarum partium congressus,' the contention of two armies as well as two single persons: and that the words are synonyma we find in Varro [k], Festus [l], Plautus [m], and P. Merula [n]; but concerning the thing itself, who please to see more instances and precedents, more arguments and verifications of it, may at his leisure find many particulars in Frisius [o], Ayala [p], Bocerus [q], Alciat [r], Bodinus [s], Beuther [t], and Albericus Gentilis [u].

I have now described the prohibitions of private executions, together with the cases in which they have been or may be permitted. The next question is upon the latter part of the rule.

[h] Bald. 5. Concil. 493.
[i] Horat. Epist. lib. 1. ep. 2. 7.
[k] De Lingua Latina.
[l] In Verb. Duellum
[m] Amphitruo.
[n] In Lib. 1. Annal. Enn.
[o] De Rep. lib. 1. cap. 26.
[p] Lib. 1. cap. 3.
[q] Lib. 2. cap. 8.
[r] De Singul. Certam. cap. 3.
[s] De Rep. cap. 4. lib. 7.
[t] Conclus. 76.
[u] De Jure Belli, lib. 1. cap. 3.

Whether it be lawful for a Christian to require of the Magistrate, that his offending Brother may be punished.

15. If the injured person be designed only to punishment, ἐκ ζέσεως περικαρδίου αἵματος, and δι' ὄρεξιν ἀντιλυπήσεως, "out of anger and a desire to be revenged," there is no question but it is infinitely unlawful. "Render not evil for evil," and divers other prohibitive words of our blessed Lord, cannot mean less than the forbidding of revenge, though obtained and desired from the hand of justice; for although the magistrate is bound to do it, if required, yet he that requires for vengeance' sake, is of an unchristian spirit: and this was observed by Dion in Plutarch, Τὸ ἀντιτιμωρεῖσθαι τῷ προαδικεῖν νόμῳ δικαιότερον ὡρίσθαι φύσει γινόμενον ἀπὸ μιᾶς ἀσθενείας, "To receive and require amends from the law is more just than that injury against which justice is required;" but it proceeds from the same weak principle; and therefore it is fit for none but fools and weak persons:

——— quippe minuti
Semper et infirmi est animi exiguique voluptas
Ultio. Continuò sic collige, quòd vindictâ
Nemo magis gaudet, quam femina ———[x].

or rather it becomes not such persons; for nothing can become them but to leave their folly and to grow wiser; for it is "cæcus et irrationalis furor," as Lactantius calls it: 'inhumanum verbum est,' saith Seneca, it is unreasonable, and "inhuman," and brutish: Οὐκ ἐφηδόμεθα, ὦ δέσποτα, τιμωρίας ἐχθροῦ, δεδιδαγμένοι πρὸς τῶν ἱερῶν νόμων ἀνθρωποπαθεῖν, said the Jews of Alexandria; "We are not delighted in taking revenge against our enemies, because, by the laws of God, we are taught to have compassion on men." And therefore is this much more to be observed in Christianity, where we are all members one of another, united to Christ our head; and therefore we should comport ourselves as members of the same body: concerning which Cassiodore says prettily, "Quod si manus una casu aliquo fortè lædat alteram, illa quæ læsa est non repercutit, nec se erigit in vindictam[y];" "If one hand strikes the other, it is not stricken again, neither doth the other think to be revenged;" as knowing it was too much that one was smitten.

[x] Juvenal. xiii. 189. Ruperti. 2. ed. p. 258. [y] De Amicitia.

16. (2.) It is lawful for a Christian to require of the magistrate to punish him that is injurious, if he justly fears a future and intolerable evil; for then it is but a calling to the law for a just defence, without which the magistrate should bear the sword in vain. Clemens Alexandrinus defines *τιμωρίαν* or 'punishment' (meaning that which is just, and in some cases reasonable to be required) to be *κακοῦ ἀνταπόδοσιν εἰς τὸ τοῦ τιμωροῦντος συμφέρον ἀναφερομένην*, "a return of evil" not for the vexing of the injurious, but "for the relief or commodity of the complainer." But if it be that which Aristotle defined it, *τοῦ ποιοῦντος ἕνεκα, ἵνα ἀναπληρωθῇ*, "for the satisfaction of him that punishes," that is, that he may have the pleasure of revenge, then it is intolerable. And therefore it must be always provided, that this appeal respect the future only, and not that which is past; for that is revenge, and this is caution and defence.

17. (3.) In all repetitions of our rights, which are permitted to Christians before Christian judges, it is not lawful for Christians to take any thing for amends beyond the real loss or diminution of good: for that is a retribution of evil, which, at no hand, is permitted to a Christian. The Jews might receive fourfold; Christians must be content with simple restitution of their loss and real damages.

18. (4.) Christians must not go to law but upon very great cause; and therefore some of the heathens, Musonius, Maximus Tyrius, and others, would not allow *ὕβρεως δίκην*, 'any amends at all for reproachful or disgraceful words.' And the Christians, who neither were nor ought to be behind them, desired not their calumniators to be punished. So Justin Martyr; "We will not those to be punished, who do calumniate us; their own perverseness and ignorance of good things is enough already of calamity:" *Μηδὲ μικρὸν ἀμείβεσθαι μηδένα βουλόμενοι, ὡς ὁ καινὸς νομοθέτης ἐκέλευσε*, "A Christian is commanded by Christ our new lawgiver not to be revenged, no, not a little."—"Abstinere à litibus etiam plusquam licet," said Cicero; "We must abstain from suits of law, even far beyond our convenience." And, in the primitive church, they took all honest things for commandments, and therefore did not think it lawful at all to go to law; *Οὐ δικάζονται τοῖς ἁρπάζουσι*, saith Justin Martyr of them, "They do not go to law with them that rob them." But

that it is lawful[a], the public necessities are a sufficient argument; and yet men for want of charity make more necessities than needs: for if charity be preserved according to its worthiest measures, there would be no suits of law, but what are not to be avoided; that is, there would be none for revenge, but some for remedy and relief. And this was that which Musonius[a] said; Ἀνελεύθερον καὶ πάνυ φιλόδικον κακηγορίας δικάζεσθαι, "It is not ingenuous to be running to law upon every provocation, though by real injury:"—Μήτε ἄρχειν λοιδορίαν, μήτε ἀμύνεσθαι τοὺς λοιδοροῦντας, said Pythagoras, "A wise man will neither revile his neighbour, nor sue him that does."—For "good men" (said Metellus Numidicus) "will sooner take an injury than return one:"—and if we read the sermon of Maximus Tyrius[b], περὶ τοῦ, εἰ τὸν ἀδικήσαντα ἀνταδικητέον; "whether it may be permitted to a good man to return evil to the injurious?" it will soon put us either to shame, or at least to consider whether there be no command in our religion, of suffering injuries, of patience, of longanimity, of forgiveness, of doing good for evil; and whether there be not rewards great enough to make amends for all our losses, and to reward all our charity; and whether the things of this world cannot possibly be despised by a Christian; and whether peace and forgiveness do not make us more like to God and to the holy Jesus. Certainly if a Christian be reproached, railed at, spoiled, beaten, mutilated, or in danger of death, if he bears it patiently and charitably, he may better say it than Achilles did in Homer[c]:

——— Φρονέω δὲ τετιμῆσθαι Διὸς αἴσῃ,

"I hope for this charity to be rewarded by God himself." If a man have relations, and necessities, and obligations, by other collateral duties, he must, in some cases,—and, in many more he may,—defend his goods by the protection of laws, and his life and limbs; but in no case may he go to law to vex his neighbour: and because all lawsuits are vexatious, he may not go to law, unless to drive away an injury that is intolerable, and that is much greater than that which is brought upon the other.

19. (5.) When a Christian does appeal to Christian

[a] Vide Great Exemplar, part 2.
[b] Serm. 2. Davis, pag. 18.
[a] Apud Lysiam.
[c] Il. r', 604.

judges for caution, or for repetition of his right, he must do it without arts of vexation, but with the least trouble he can; being unwilling his neighbour should suffer any evil for what he hath done. "Omnia priùs tentanda quam bello experiendum:" "He must try all ways before he go to this;" and when he is in this, he must do it with as little collateral trouble to his adversary at law as he can. To this belongs that of Ulpian; "Non improbat prætor factum ejus, qui tanti habuit re carere, nè propter eam sæpiùs litigaret. Hæc enim verecunda cogitatio ejus, qui lites execratur, non est vituperanda." A man must be modest and charitable in his necessary suits at law: not too ready, not too greedy, not passionate, not revengeful; seeking to repair himself when he must needs, but not delighting in the breaches made upon his neighbour.

20. In order to this, it would prevent many evils, and determine many cases of conscience, or make them easy and few, if evil and rapacious advocates,—that make a trade, not to minister to justice, but to heap up riches for themselves,—were not permitted in commonwealths to plead in behalf of vicious persons and manifest oppressors, and in causes notoriously unjust. Galeazzo Sforza, duke of Milan,—being told of a witty lawyer that was of evil employment, a patron of any thing for money, employing his wit to very evil purposes,—sent for him, and told him that he owed his painter a hundred crowns, and was not willing to pay him; and therefore asked him if he would defend his cause in case the painter should require his money at law. The advocate promised him largely, and would warrant his cause; which when the Duke heard from his own mouth, he caused him to be hanged. The action was severe, but strangely exemplary. I have nothing to do with it, because I am not writing politics, but cases and rules and conscience: but I have mentioned it as a great reproof of all that which makes causes and suits of law to be numerous; which is a great sign of corruption of manners, if not of laws, in any place; but amongst Christians, it is a very great state of evil. And therefore Charles IX. of France made an edict, that whosoever began a suit of law, should pay into the finances two crowns; which if his cause were just, he should lose; if it were unjust, the law would sufficiently punish him besides: but even

upon a just cause to go to law, is not the commendation of Christian justice, much less of charity: Οὐκ εἶεν ἄν ποτε πολῖται φίλοι, ὅπου πολλαὶ μὲν δίκαι ἐν ἀλλήλοις εἶεν, ἀλλ' ὅπου ὡς ὅτι σμικρόταται καὶ ὀλίγισται, "Then charity is best preserved amongst citizens, not when there are most decisions of causes, but when the suits are fewest."

RULE VII.

It is not lawful to punish one for the Offence of another; merely, and wholly.

1. "QUOD tute intristi, tibi exedendum est," said the comedy[d]; "As you knead, so you must eat;" and he that eats sour grapes, his teeth only shall be set on edge. This is the voice of nature, of God, of right reason, and all the laws and all the sentences of all the wise men in the world; and needs no further argument to prove it. But there are in it some cases which need explication. 1. Concerning persons conjunct by contract; 2. In persons conjunct by nature; 3. In them which are conjunct by the society of crime. For in all these one is punished for the fault of another; but how far this can be just and lawful, are useful inquiries in order to the conduct of conscience.

2. The first inquiry is concerning persons conjunct in contract; such as are, pledges in war, sureties for debt, undertakers for appearance, and the like. Concerning pledges in war, it hath been sometimes practised in warlike nations, to put them to death when their parties have broken their promise. The Thessalians killed two hundred and fifty; the Romans, three hundred of the Volsci; and this they might do by the law of nations: that is, without infamy and reproach, or any supposed injustice: they did practise it on either side. But the thing itself is not lawful by the law of God and nature, unless the pledges be equally guilty of the crime. When Regulus was sent to Rome to get an exchange of prisoners, and himself, upon his promise, was engaged to release them, or to return himself; when he per-

[d] Phorm. act. 2. sc. 1. 4. Mattaire, p. 263.

suade dthe Romans not to release the African prisoners, the Carthaginians had reason to account him guilty as his country. But when the pledges are not, it is against the law of nature to put to death the innocent. For either the pledges are violently sent in caution against their wills, or with them. If against, then the wrong is apparent, and the injustice notorious. If with their will, it is to be considered, it is beyond their power; for, "nemo membrorum suorum dominus videtur," saith the law [e]; and therefore it is, that, in criminal causes, where corporal punishment is inflicted, no man is permitted to be surety for another, but in civil causes he may; because no surety may lawfully be put to death for the principal, as is noted by the gloss [f]: the reason is plain; he that is surety for another, can engage nothing of which he is not the lord, and over which he hath no power; and therefore he cannot lay his body, his life, or limb, at stake. No man hath power to engage his soul for the soul of another, that is, so as to pay his soul in case of forfeiture to acquit another; for it is not his, it is another's; it is his who hath purchased it and is lord over it, that is Christ: and so is our body redeemed by the blood of Christ, "for ye are bought with a price; therefore glorify God in your body and in your spirit, which are God's," saith the Apostle [g]. Now this is so to be understood, not that one man may not feel the calamity which the sin of another can bring upon him; but that the law cannot inflict corporal punishment upon any relative, so as the criminal shall escape, and the law be satisfied, as if the offending person had suffered. If a father be a traitor, the law may justly put him to death, though the wife will die with sorrow: but the law cannot put the wife to death, or the son, and let the husband go free. One relative may accidentally come into the society of another's punishment, not only if they be partners of the crime, but though one be innocent: but one cannot pay it for the other and acquit him. This, I say, is to be understood in corporal punishments.

3. But in pecuniary punishments, the case is otherwise. For a man is lord of his money, and may give it away, and therefore may oblige it; and he that is surety for another's

[e] L. liber ff. ad legem Aquiliam. [f] In cap. Cum Homo 23. q. 5.
[g] 1 Cor. vi. 20.

debt, gives or lends it to him that is principally obliged; and therefore it is just to take it, and the surety hath power to do it. But by the way it is observable, that the surety can only oblige his money, or himself to the payment of his money: but when the creditors had power to torment the insolvent debtors, no man could give himself a surety directly for that torment; but by making himself a debtor, he did by consequence make himself criminal if he did not pay, and so might with as much justice be tormented as the principal debtor.

4. But the whole business is unreasonable as to this instance, and therefore the inquiry is soon at an end, and the case of conscience wholly different; for in this particular it is not only unlawful to punish the surety with corporal punishment, but even the principal that is insolvent, is to be let alone. If he fell into poverty by his prodigality, the law may punish that as she please; or if he intends to defraud the creditor, he may be punished, or constrained to pay: but if he fall into poverty ἐκ τοῦ συμβεβηκότος καὶ οὐ ῥαθυμίᾳ, as Justinian's expression is, "by unavoidable accident, not by impious courses," it is against justice and charity to put him to trouble.

5. Concerning which, though it be not pertinent to this rule, but here only very well occasioned, I shall give this short account, that at once I may be wholly quit of this particular. In the laws of the Twelve Tables, it was permitted to creditors to imprison, to torment, to put their insolvent debtors to death; and if there were many of them, they might cut the body in pieces, and every man go away with his share. "Nihil profecto immitius," says A. Gellius[h]; "nisi, ut reipsâ apparet, eo consilio tanta immanitas pœnæ denunciata est, ne ad eam unquam perveniretur." It was an intolerable and cruel justice, and only therefore published in so great a terror, that it might never be put in execution; and indeed, as he observes, it was never practised.

6. But "addici nunc et vinciri multos videmus," saith he; that was the next cruelty: the debtors were sold and all their goods; even kings, subject to the Roman empire, were, with their crowns and purple, their sceptre and royal ensigns, published by the crier, and made slaves to pay their debts.

[h] Lib. 20. cap. 1. Oiselii, p. 1106.

The king of Cyprus was so used, as Cicero, in his oration 'pro Sextio' sadly complains. The dividing the body of the debtor was changed into the dividing of his goods; but this also was hateful and complained of by wise and good men: "Si funus id habendum sit, quò non amici conveniut ad exsequias cohonestandas, sed bonorum emptores, ut carnifices, ad reliquias vitæ lacerandas et distrahendas," said Cicero [j]: and Manlius most worthily, seeing a Roman led to prison like a slave, for debt, cried out [k], "Tum verò ego nequidquam hâc dextrâ Capitolium arcemque servaverim, si civem commilitonemque meum, tanquam Gallis victoribus captum, in servitutem ac vincula duci videam:" "To what purpose did I save the Capitol, if a citizen and my fellow-soldier shall for debt be made a slave, as if he were taken prisoner by the Gauls?"—and therefore he paid the debt and dismissed the prisoner.

7. But because this was cruel and inhuman, when Petilius and Papirius were consuls, a law was made, that all the goods and possessions of the debtors should be obnoxious to the creditors, but not his body; but yet so that the debtors did work for their creditors, but not in chains: and this lasted till the 'lex Julia' decreed, in Augustus's time, that the insolvent debtors might quit all their goods, but neither suffer chains, nor slavery, nor do labour for their creditors; but the benefit of this law [l] extended not to prodigal and vain persons, but to those only "qui vi majore aliquâ fortunis evertebantur" (that was their word), "who were undone by any great violence," by shipwreck, or fire, or any accident unavoidable. For as for others, they were delivered to the capital triumvirate and punished 'ad columnam Mœnianam,' that is, whipped extremely; and this continued under the time of Gratian the emperor, who decreed [m] that such debtors who were not 'eversi per vim majorem," should not receive any benefit by quitting all their goods; but if they were less than their debt, "ad redditionem debitæ quantitatis congruâ atque dignissimâ suppliciorum acerbitate cogantur," "they should be compelled by torment to pay a due proportion [n]:"—and in this there might be severity; but it

[j] Pro Quintio, cap. 15.—Beck, vol. 1. pag. 19.
[k] Liv. lib. 6. cap. 14. Ruperti, vol. 1. pag. 441.
[l] Lib. 1. Cod. Theod. [m] Vide Rævardum ad Ll. 22. Tabul. cap. 8.
[n] Lib. 1. Cod. Theod. qui bon. ex leg. Jul. ced. et l. si victum ff. de re Judic.

had in it very much of justice. But for the other part of it, of the entire cession of goods, and that the insolvent, miserable debtor, should be exposed to starving, this had neither charity in it nor justice; and therefore after much complaining, and attempts of ease, it was wholly taken away [o] by the emperors, Constantine, Gratian, and Justinian: Πού γὰρ δίκαιον τὸν ἅπαξ ἐκ τοῦ συμβεβηκότος καὶ οὐ ῥᾳθυμίᾳ παραδιδομένῃ ἐκτὸς τῶν αὐτοῦ γεγονότα, αὖθις ἀσχήμονα τὸν βίον ἑαυτῷ παρατιθέναι, καὶ τῆς ἐφημέρου τροφῆς, καὶ τῆς τε τοῦ σώματος σκέπης ἔξω βιαίως καταστῆναι. "It is infinitely unjust that he who is fallen into poverty without his fault, should be constrained to live a shameful life, without his daily bread, and the necessary provisions for his back:"— and then it was ordered that if the debtor did 'ejurare bonam copiam,' that is, 'swear that he had not goods sufficient to pay the debt,' he should be free.

8. This was made into a law long before the time of Gratian; when Sylla was dictator, Popilius demanded, and it was decreed. But tyrants usually make good laws, and after they are dead, are so hated, that even their good laws are sometimes the less regarded: and so it happened in this particular; insomuch that Cicero [p] spake against L. Flaccus for desiring to have Sylla's laws confirmed. But it soon expired through the power of the rich usurers, as we find by the complaint of C. Manlius in Sallust [q]; and even so long as the 'lex Popilia' did prevail, yet they had arts to elude it: for though they could not bind the debtors in public prisons, yet they would detain them in their own houses; and though it was a great and an illegal violence, yet the poor man's case is last of all heard, and commonly the advocates and judges have something else to do.

9. This is a perfect narrative of this affair; in all which it is apparent, that wise and good men did infinitely condemn the cruel and unjust usage of insolvent debtors, who were 'per vim majorem eversi,' not poor by vice, but misfortune and the Divine Providence. The violence and the injury are against natural justice and humanity, or that natural pity which God hath placed in the bowels of mankind: as appears by the endeavours of the wiser Romans to correct the

[o] Lib. 2. cap. de Exact. Tribut. lib. 10. [p] In Rullum.
[q] In Catilin. cap. 33. Bipont, pag. 26.

cruelty of creditors. But the debtors, though by degrees eased, yet were not righted till Christianity made the laws, and saw justice and mercy done. St. Ambrose[r] complained most bitterly of the creditors in his time; "Vidi ego pauperem duci, dum cogeretur solvere quod non habebat; trahi ad carcerem quia vinum deesset ad mensam potentis; deducere in auctionem filios suos, ut ad tempus pœnam differre possit: inventum fortè aliquem qui in illa necessitate subveniret," &c. "I have seen a poor man compelled to pay what he had not to pay, and dragged to prison because his creditor had not wine enough to drink; and to defer his punishment awhile, forced to sell his sons at an outcry."—"Grandis culpa est (saith he[s]), si te sciente fidelis egeat, si scias eum sine sumptu esse, fame laborare, et non adjuves; si sit in carcere, et pœnis et suppliciis, propter debitum aliquod, justus excrucietur:" "It is a great fault, if when you know it, you suffer a faithful man to want meat and provisions; if a just or good man be in prison, and in chains or torments for debt." Now if persons, not interested in the debt, might not suffer such a thing to be and abide, much less might any man do such a thing. If every man that could, was bound to take off the evil, it is certain it was infinitely unlawful to inflict or to lay it on: and therefore the remains of this barbarity and inhumanity amongst us, do so little argue Christianity to be amongst us, that it plainly proves, that our religion hath not prevailed so far upon us as to take off our inhumanity.

10. Of the same nature is that barbarous custom of arresting dead bodies, and denying them the natural rights of burial till a debt be paid. Ascelinus Fitz Arthur arrested the body of William duke of Normandy, conqueror of England, upon something a like account. But St. Ambrose[t] blames such unnatural cruelty, and derides the folly of it; "Quoties vidi a fœneratoribus teneri defunctos pro pignore, et negari tumulum dum fœnus exposcitur? Quibus ego acquiescens dixi, Tenete reum vestrum, et ne possit elabi, domum ducite; claudite in cubiculo isto, carnificibus duriores: quoniam quem vos tenetis, carcer non suscipit, exactor absolvit;" "To them who seized on dead bodies for their debt, I called out, Hold fast your debtor, carry him home lest he run away, O ye that are more cruel than hangmen."—But of this suf-

[r] Lib. de Nabuth. cap. 5. [s] Offic. lib. 1. [t] Lib. de Tobia, cap. 10.

ficient; for whatsoever is against the law of nature, to have named it is to have reproved it. Only there is one case, in which if dead bodies be arrested for debt, I cannot so much complain of it; and that is in the customs of France, where they never imprison any alive for debt, unless he be expressly condemned to it by the sentence of the judge, or contracted upon those terms with the creditor: but when the man is dead, they lay their claim, because they cannot hurt the man. This I find in Gasper Beatius, who cites these verses for it out of Johannes Girardus, an ill poet, but a good lawyer:

Heus principes, duodecim
Tabulæ, inopem crudeliter
Quæ debitorem dissecant,
Aut jura, mores publici,
Quæ carceribus illum miserè
Et opprimunt et enecant,
Nimis mihi, nimis displicent.
Qui Gallum habuit mos, bonus
Idem et verus probabitur
Nimis mihi cuique et bono,
Quo creditores debita
Petant sibi post funera.

But I suppose he might speak this in jest, to represent the lenity of Frenchmen in not casting their debtors into prison. But if a debtor should, as Argyropilus, jesting at his death, make his rich friends the heirs of all his debts, it would spoil the jest.

Now I return to the other inquiries of the rule.

11. The second inquiry is concerning persons conjunct by nature; whether, for example's sake, sons or nephews can be punished for the faults and offences of their fathers and grandfathers. Concerning this, I find Paulus the lawyer and Baldus speaking exact antinomies. For Baldus[u] affirms, "Hæredem teneri ad pœnam, ad quam defunctus fuerat condemnatus," "The heir of his father inherits his father's punishment:" but Paulus[x] says expressly, "Hæredem non teneri ad pœnam defuncti," "The heir is not bound to suffer the punishment of the dead." But they are both in the right: for the heir is not tied to suffer the corporal punishment, to which his father was condemned, because his father had no dominion over his son's body or his own;

[u] In l. id quod Pauperibus, qu. 9. C. de Episcopis Clericis.
[x] In l. si Pœna, ff. de Pœnis.

but over his goods he hath, and therefore can transmit these with their proper burden: and therefore the heir is liable to pay the fine, to which his father was sentenced, and to pay his father's debts, and is liable to the same compulsion, with this only caution, that if the father be under torment or imprisonment for insolvency, the son be no way obliged to that; because whether the insolvency of the father be by his fault or misfortune, still the son is not obliged: for as he is not bound by his father's personal fault to suffer punishment, so neither, for his misfortune, can he be obliged beyond the suffering of a descending poverty. If his father was insolvent by his crime, the punishment was to go no further than the fault, and therefore no torment was entailed: but if he were insolvent by misfortune, neither the father nor the son for that could deserve any further evil: and if the father transmitted no goods, no advantage, to the son, there is no reason he should transmit a burden: "Nemo fiat deterior per quem melior factus non est," says the law. And therefore St. Ambrose[y] complained of a sad sight he saw; "Vidi ego miserabile spectaculum, liberos pro paterno debito in auctionem deduci, et teneri calamitatis hæredes, qui non essent participes successionis, et hoc tam immane flagitium non erubescere creditorem;" "I have seen sons sold slaves for their fathers' debt, from whom they were never like to receive an inheritance;" and which is yet more strange, "the creditors were not ashamed of the impious cruelty."—But this is a ruled case both in divinity and law. "Nunquam unus pro alio potest pœna corporis puniri," said Alexander of Hales[z], and Thomas Aquinas[a]; "No man can suffer corporal punishment in the place of another:" the same with that in the law[b]. And therefore of all things in the world, conjunction of nature, which should be a means of endearment, and the most profitable communications, ought not to be an instrument of the communication of evil: "Unius factum alteri, qui nihil fecit, non nocet[c];" and again[d]: "Peccata suos teneant auctores, nec ulterius progrediatur metus, quam reperiatur delictum." But it is expressly instanced

[y] Lib. de Tobia. cap. 8.
[z] 3. p. q. 41. in 4. a. 4. corollar. 3.
[a] In 2. 2æ. q. 180. a. 4. ad. 2.
[b] L. Crimen ff. de Pœnis.
[c] L. de Pupillo, 5. sect. Si. Plurium. ff. Nov. op. nunt.
[d] L. Sanctimus, 22. cap. de Pœnis.

in this matter of succession; "Unusquisque ex suo admisso pœnæ subjiciatur, nec alieni criminis successor teneatur." "The son may succeed in his father's burdens and misfortunes, but not in his crimes or corporal punishments[e]."

12. And this is the measure of the third inquiry. For they who are conjunct in crime, are equally obnoxious to punishment: and therefore if one be punished for the fault of another, it is just to him that is punished; and mercy to them that are spared. For when all are criminal, all are liable to punishment, and sometimes all do suffer. So did the Campanian legion[f] that rebelled at Rhegium, and possessed the town for ten years; they suffered every man, four thousand heads paid for it. So did the ninth legion under Julius, and the tenth legion under Augustus, every man was punished[g]. For the rule of the law[h] is, "Quod à pluribus pro indiviso commissum est, singulos in solidum obligat;" "When every man consents to the whole crime, every man is wholly criminal."—If ten thieves carry away a load of iron, every man is tied to the punishment of the whole. But sometimes only the principals are punished, Thus at Capua[i] seventy princes of the senate were put to death for rebelling against the Romans, and three hundred of the nobility were imprisoned, and two hundred and twenty-five of the Sorani. And this way is often taken by princes, and wise generals, and republics, "ut unde culpa orta esset, iba pœna consisteret." And C. Decimius[k] was heard with great applause, when, in the case of the Rhodians, he affirmed, that the fault was not in the people, but in their principals and incendiaries; meaning, it was not so in the people as in their leaders. And in tumults it often happens as it did at Ephesus, when St. Paul had almost been torn in pieces with the people: "the greater part knew not why they were come together," but all were in the tumult; and in such cases it is justice that one be punished for many, a few for all: and therefore St. Ambrose did highly reprove Theodosius the emperor for killing seven thousand of the Thessalonians for a tumultuary rescuing a criminal from the hand of the magistrate, and

[e] L. Crimen. ff. eod. [f] Liv. xxviii. 29.
[g] Sueton. in Julio. cap. 69. in August. cap. 24.
[h] L. semper, sect. 2. ff. Quod. vi aut cl. et l. item Mela, sect. 2. ff. ad legem Aquiliam. [i] Livius, lib. 36. [k] Lib. 45. 10.

killing the governor and some great officers in the sedition. Sometimes the criminals were decimated by lot, as appears in Polybius[l], Tacitus[m], Plutarch[n], Appian[o], Dio[p], Julius Capitolinus[q], who also mentions a centesimation. And the reason of this equity Cicero[r] well discourses in his oration, 'pro Cluentio,' "ut metus ad omnes, pœna ad paucos perveniret;" "that some may be punished, and all may be made to fear: for the soldiers being made to fear the bigger fear of their general, would never fear the less fear of the enemy," who does not strike so surely as the executioner; and therefore they might afterward become good men and good citizens. But because in public offences the cases may be different, they are by this measure reduced to reason.

13. If the tumult or war be by the command of magistrates, the people are to be affrighted, or admonished, but the commanders only are to be punished; "Ne alieni admissi pœnam luant, quos nulla contingit culpa[s]." For the people are soon commanded by him that stands next above them. And therefore since to obey is like a duty, it is not easily to be reckoned to a real crime, and the greatest punishment.

14. But if the fault be done by the people without authority or excuse, but just as fire burns a house by chance, or water breaks a dam by its mere weight, then it is to be considered whether the criminals be many or few; if few, they may all be punished without breach of equity, upon the account of the rule of the law[t], "Quæ pœna delictis imposita est, si plures deliquerint, à singulis in solidum debetur." But if many were in the crime, then the rule of equity and the gentleness of the law[u] are to take place, "Ut pœnæ interpretatione potius molliantur, quam exasperentur;" a few should be punished for all the rest, "ut supersint quos peccasse pœniteat." For it is of great avail for the public interest, that as some be cut off, so some should remain alive, that they may repent. And in this sense is that of 'Lucan[x],'

—— quicquid multis peccatur, inultum est.

Besides that it is evil to the commonwealth to lose so many subjects; it is also sometimes dangerous;

[l] Lib. Hist. 6. [m] Lib. i. 37. [n] In Crasso.
[o] Civil. 2. [p] Lib. 48. [q] In Opilio Macrone.
[r] C. 46. Beck, vol. 3. pag. 105. [s] L. ult. ff. de Bon. Damnat.
[t] L. item Mela, ff. ad leg. Aquil. [u] Leg. Pœn. ff. de Pœnis.
[x] Phars. v. 260. Oudendorp, pag. 360.

—— sed illos
Defendit numerus junctæque umbone phalanges [y].

The determination of these two particulars I learn from Cicero [z] in his oration 'pro Flacco:' "Vobis autem est confitendum: si consiliis principum vestræ civitates reguntur, non multitudinis temeritate, optimatum consilio bellum ab istis civitatibus cum populo Romano esse susceptum:" "If the nobles govern your cities, then the nobles made the war, and the people are innocent;" "sin ille tum motus est temeritate imperitorum excitatus, patimini, me delicta vulgi à publica causa separare;" "but if the rabble did the fault, the city is not to be punished; it is not a public offence:" "Multitudo peccavit, sed non universitas." For a rabble does not make a city, a people, or a republic; for to make this, it must be "cœtus qui jure aliquo continetur [a]," a multitude under government, and a legal head.

15. But if both the magistrates and the people be in the offence, "culpa est penes paucos concitores vulgi," said C. Decimius; it is better than the ringleaders and the boutefeus should lie at stake, and feel the severity, while the others are instructed and preserved by the gentleness of laws and princes.

There are some other questions and cases of conscience concerning penal laws; but they can with more propriety be handled under other titles, and therefore, I shall refer them to their several places. But for the likeness of the matter, I have here subjoined some rules concerning the measures and obligations of conscience in the matter and laws of tribute.

OF LAWS OF TRIBUTE.

RULE VIII.

The Laws of Tribute are moral Laws, and not penal, except it be by Accident; and therefore do oblige the Conscience to an active Obedience.

1. HIM to whom we pay tribute, we owe obedience to. It is St. Paul's [b] argument to prove that we ought to obey the

[y] Juv. ii. 45. Ruperti. [z] Cap. 24. Beck. vol. 4. pag. 61.
[a] L. Mentam. sect. Animadvertendum. ff. quod met. caus. [b] Rom. xiii.

powers that are set over us, because to them we pay tribute; which tribute is not introduced by tyranny, but is part of that economy by which God governs the world, by his deputies and lieutenants, the kings and princes of the earth. "Neque quies gentium sine armis, neque arma sine stipendiis, nec stipendia sine tributis haberi queunt," said Tacitus [c]; "No peace without laws; no laws without a coercitive power; no power without guards and soldiers [d]; no guards without pay:" and that the soldiery may be paid, and the laws reverenced, and the power feared, and every man's right be secured, it is necessary that there be tribute. "Ut sit ornamentum pacis, subsidium belli et nervus reip. tributum est pecunia populo imperata, quæ tributim à singulis proportione census exigebatur," said Varro. But besides this, the very paying tribute is the sign and publication of our subjection. It is giving him that which is his own: for he that coins the money, hath the power of the law, and this from the custom of the world for many ages. The Persians first imprinted the figure of their prince upon their money, after them the Greeks: hence were those names of coin, the darics and philippics; for the money having the impress and figure of the prince, the name and the value from the prince, is a seizure and solemn investiture in the government of that people; and our blessed Lord was pleased from hence to argue, that therefore they ought to pay tribute to Cæsar; because what way soever he came first to it, Christ does not there dispute, but he was over them, and he protected them in peace, righted their causes, relieved their oppressions, stamped their money, gave value to that, and protection to them, and therefore they were bound to pay their tribute. It was 'res Cæsaris,' as he was pleased to call it, 'the things of Cæsar;' it was due to him for the public ministry of justice: and this is also urged by St. Paul; "for they are God's ministers, watching for this very thing," that is, for your good; and therefore are to be maintained according to the dignity of that ministration.

2. Now as we owe tribute to whom we owe obedience, so we owe obedience to whom we owe tribute: that is, if we

[c] Histor. iv. cap. 74. Oberlin. vol. 2. p. 307. Lond. ed.

[d] Ad hoc tributa præstamus, ut propter necessaria militi stipendium præbeatur, S. Aug. lib. 22. cap. 74.—Cap. Faust. Manich.—Cicero pro lege Manilia.

have authority to exact tribute, we are bound in conscience to pay it. It is a law as much obliging the conscience as any other. Numus or Nummus from Numa, say the Roman critics; because King Numa first stamped money against them. But I suppose it is from a Greek fountain, Numus and Numisma from *νόμισμα*, and that says Aristotle[e] is *ἀπὸ τοῦ νόμου*, 'from the law:' for he that stamps money, gives the law; and amongst others, and for the defence of all laws, this law of paying money to him by way of tribute, is obligatory.

3. And the case does not differ by what name soever it be imposed: 'vectigal,' 'tributum', 'census,' *τέλος*, *φόρος*, were the words amongst the Greeks and Latins, and did signify portions of money paid from lands, from merchandise, for heads, 'excisum quid,' 'something that is cut off' from the whole, for the preservation of the rest; that is excise-money: but whatever the words be, St. Paul reckons them all to be *τὰς ὀφειλὰς* 'due debt:' and therefore *ἀπόδοτε* saith our blessed Lord[f]; 'Απόδοτε, saith St. Paul, 'Restore or pay it;' it is a debt due by the ordinance of God. It is all but tribute; even the census, or pole-money, is tribute: so it is called by Ulpian[g], "tributum capitis;" "the tribute of the head." The same use of the word I have observed out of Ammianus and Tertullian. This I the rather note, that I might represent the obligation to be all one by the law of God, though the imposition be odious, and of ill name amongst the people, according to that saying of Tertullian[h]; "Si agri tributo onusti viliores, hominum capita stipendia censa ignobiliora." "Fields under contribution are cheaper, and men under a tax are more ignoble."—'Angaria' is another sort of tribute; an imposition of work and upon the labours of the subject. It is indeed the worst and the most vexatious; but it is 'species tributi,' 'a kind of tribute,' and due by the laws of religion, where it is due by the laws of the nation: and therefore those persons are very regardless of their eternal interest, who think it lawful prize whatever they can take from the custom-house; whereas the paying of tribute is an instance of that obedience which is due to them that are set over us, "not only for wrath, but also for conscience' sake;" and St.

[e] Ethic. 5. cap. 5. Wilkinson, pag. 203.
[f] Matt. xxii. 21. Rom. xiii. 7.
[g] L. 3. ff. de Censibus.
[h] In Apolog.

Paul never uses the word 'conscience,' but when it is the concern of a soul. It is St. Ambrose's[i] observation, who also uses this argument, "Magnum quidem est et spirituale documentum, quo Christiani viri sublimioribus potestatibus docentur esse subjecti, ne quis constitutionem terreni regis putet esse solvendum? Si enim censum Dei Filius solvit, quis tu tantus es qui non putes esse solvendum?" "It is a great and a spiritual doctrine, that Christians be subject to the higher powers. For if Christ paid tribute, what art thou, how great, how mighty, that thou thinkest thou art not obliged?"

RULE IX.

The Laws of Tribute have the same Conditions, Causes, Powers, and Measures, with other Laws of Government.

1. THIS rule requires, that[k] the authority be supreme,—that the cause be just,—that the end be public,—that the good be general,—that the people receive advantage. Which is to be understood of tribute, which is not penal, nor compensatory. For sometimes tributes are imposed upon a conquered people[l] as fetters upon a fugitive, to load him that he run away no more; or to make amends for the charges of a war. If they were in fault, they must bear the punishment; if they did the evil, they must suffer the evil; that, at the charge of the conquered, themselves also shall enjoy peace. So Petilius said to the Gauls[m]; "Nos, quamquam totiens lacessiti, jure victoriæ id solum vobis addidimus, quo pacem tueremur," "You have provoked us, and we have conquered you; and yet have only imposed the punishment of so much tribute on you, that at your charge we will keep

[i] In 1. Reg. 14. 11. q. 1. cap. 28.

[k] Vectigalia, sine imperatorum præcepto, neque præsidi, neque curatori, neque curiæ constituere, nec præcedentiæ reformare, et his vel addere, vel diminuere licet: ff. de Publican. lib. 10.—Vectigalia nova nec decreto civitatum institui possunt, Sever. C. de Vectigal. Nov. Instit. non poss. lib. 2.—et Gallien. l. seq. ait, Non solent nova vectigalia inconsultis principibus institui.—Placet nullum omnino judicem de cætero provincialibus inferendum aliquid indicere, ut ea tantum sedulo cunctorum studio pensitentur, quæ canonis instituti forma complectitur, vel nostra clementia decernit inferenda, vel delegatione solemniter sanciente, vel epistolis præcedentibus: Constantin. lib. 8. cap. de Excusat. mun. lib. 10.

[l] Deut. xx. 11.

[m] Tacit. Histor. iv. cap. 74. Brotier, Valpy's ed. vol. 3. pag. 328.

the peace." So concerning the Greeks[n] Cicero affirms, that they ought to pay some part of their fruits, that, at their own expenses, they be restrained from undoing themselves by civil wars.

2. But then this is at the mercy and good-will of the conqueror; for the tribute he imposes upon them as punishment, he is so the Lord of it, that however he dispose of it, it must be truly paid. And the same is the case of a tribute, imposed by way of fine upon a city or society: the supreme power is not bound to dispense that in public uses; and if he does not, yet the subject is not at liberty in his conscience, whether he will pay it or no. For, in this case, it is not a law of manners but of empire; and is a private perquisite of the prince, as the prince himself can be a private person; which because it cannot be in any full sense or acceptation of a law, but in nature only, so neither can the tribute be of so private emolument, but it will at least indirectly do advantage to the public.

3. In other tributes, such which are legal, public, and universal, the tribute must be proportioned to the necessity and cause of it; it must be employed in that end to which it was imposed and paid,—for that is a part of commutative justice; it must be equally laid,—that is, as far as it can be prudently done, supposing the unavoidable errors in public affairs in which so many particulars are to be considered,—for this is a part of distributive justice: and where there is a defailance in these, I mean, a constant and notorious, there the conscience is disobliged, as far as the excess and injustice reach,—just as it is from the obedience to other laws that are unjust; of which I have given account, in the third rule of the first chapter of this book. But this, I say, is true in such tributes, as are of public and common use. For those which are for the expenses and personal use of the prince, if he spends them well or ill, the subject is not concerned; but only that he pay it according to the law and custom. In these, the supreme power is a supreme lord; in the other, he is but a supreme steward and dispenser.

4. As the laws of tribute have their original and their

[n] Bp. Taylor alludes to the following passage: "Id autem imperium cum retineri sine vectigalibus nullo modo possit, æquo animo parte aliquâ suorum fructuum pacem sibi sempiternam redimat atque otium." Ep. ad Q. Fratr. i. n. 11. Priestley's ed. vol. 5. pag. 976. (J. R. P.)

obligation, so they have their dissolution as other laws have, with this only difference, that the laws of tribute, when the reason ceases, if they be continued by custom, are still obliging to the subject[o], it being reason enough that the supreme power hath an advantage by it, which cannot be so personal but that it will, like the brightness of the sun, reflect light and heat upon the subject.

5. Lastly, In the levying and imposing tribute, by the voice of most men, those things usually are excepted, which are spent in our personal necessities. Whatsoever is for negotiation, may pay, but not what is to be eaten and drunk. This tribute nevertheless is paid in Spain; for it is that which they call 'alcavala;' and in Portugal, where it is called 'sisa.' I suppose it is the same with the 'excise' in England and the Low Countries; and yet it is much spoken against for these reasons, 1. Because it is too great an indication or likeness to slavery, and an uningenuous subjection to pay tribute for our meat and drink and the necessaries of life; it is every day a compounding for our life, as if we were condemned persons, and were to live at a price, or die with hunger, unless by our money we buy our reprieve. 2. The other reason of the complaint made against this, is because by this means the poor, and he that hath the greatest charge of children, and he that is the most hospitable to strangers and to the poor, shall pay the most, who yet, of all men, ought most to be eased. And, upon these or the like reasons, the civil law imposed gabels only upon merchandises for trade and gain and pleasure. And of this opinion are generally all the canonists[p] and most of the civilians, and very many divines: but when scholars come to dispute the interest of princes and the measures of their gain or necessities, they speak some things prettily, but to no great purpose. In these and all other cases of this nature, kings and princes will do what they please; and it is fit they should, let us talk what we will, always provided, that they remember they are to answer to God for their whole

[o] Præterea cum pedagia, guidagia, salinaria tibi legatus interdixerit, auctoritate apostolicâ duximus declarandum, illa esse pedagia, salinaria, guidagia interdicta, quæ non apparent imperatorum, vel regum, vel Lateranensis concilii largitione concessa, vel ex antiqua consuetudine à tempore, cujus non extat memoria introducta, Innocent. 3. de Verb. Signif. c. super quibusdam, sect. 1.

[p] L. Univers. C. de Vectig. et. l. omnium C. eod.

government; and how they should be enabled to make this answer with joy, they are to consult with the laws of God, and of the land, and with their subjects learned in them both: and that, above all men, princes consider not always what they may do, but what is good; and very often, what is best. This only: Tribute upon meat and drink is not of itself unjust; but it is commonly made so: for whether the tribute be paid only by the merchant, as in Castile and England; or by the merchant and him that spends them for his need, and not for his gain, as in Portugal; yet still the poor man is the most burdened in such cases: for the merchant will sell the dearer, and then the evil falls upon the poor housekeeper, contrary to the intention of all good princes; which if they will take care to prevent, I know nothing to hinder them, but that, by the same rules, which they observe in making other laws, they may take their liberty in this.

RULE X.

Tribute, and Customs which are due, are to be paid whether they be demanded or no.

1. This is but the result of the former discourses. For if a tribute be just, it is a due debt, and to be paid as any other: and human laws do not only make the paying tribute to be necessary in the virtue of obedience, for then unless the law expressed that it ought to be paid, though it be not particularly demanded, the subject not demanded were free; but the laws place this obedience in the form and matter of its proper kind of virtue, it is justice to pay it, and that must not be omitted at all; for our duty is not to depend upon the diligence of other men; and if the ministers of the prince be negligent, yet we must not be unjust. This is true in subjects and natives; but strangers are free, unless they be required to pay: always supposing, that they go in public ways and with open address. For it is presumed that they are ignorant inculpably in the laws of the country, and they are less obliged; but therefore these defects are to be supplied by the care of them that are intrusted. But if they

know it already, they are obliged as the natives, according to the laws, and must not pretend ignorance, in fraud and cozenage.

2. But this also is to be understood of customs and tributes which are just. In which number, those which are of an immemorial time and long use, ever are to be presumed. Those which are newly imposed, may better be considered whether they be or no, because they want that approbation which is given to the old. But whatsoever are unjust, do not oblige to payment; and the merchant may use all just ways of escape, and concealment. He may not lie, nor forswear, nor deny them to be there when they are there, and he is asked; but he may hide them, or go into secret ways: and if he be discovered, he must suffer as they please, but his conscience is free.

3. He that pays not tribute, upon pretence that it is unjust, that is, it is imposed by an incompetent authority, or in an undue manner, or unjust measure,—must be sure that it is unjust, and not only think so. For if he be deceived, he does not err with a good conscience, unless he use all the diligence and ingenuous inquiries that he can. His ignorance must not, and cannot innocently, prejudice the prince's rights. If therefore he inquire well and wisely, unless the injustice be very clear and certain, he will at most but doubt concerning it; and if he does, the surer way is to pay it: but if he does not doubt, but is fully persuaded of the injustice, if he thinks true, he is innocent; but if he thinks amiss, he is not only guilty of a culpable ignorance, but of a criminal injustice.

4. If the subject does doubt, the presumption is for the advantage of the prince, because he is the better person, and public, and he is rather to be secured than the private and the inferior. And therefore I wonder at those lawyers and divines that say otherwise, upon pretence that "in dubiis melior est conditio possidentis," "the possessor is to be preferred in doubtful cases." For supposing this, yet the prince is in the possession of law, and the subject in possession of fact: the prince is in possession of an actual right and law of demanding it, and therefore his condition is to be preferred. For in the practice of paying tribute, it is not sufficient cause of omitting to pay it, that the subject doubts whether

it be, or is not sure that it is, just. For unless he be sure it is unjust, it is sure that he is bound to pay. And therefore in this case, let no merchant trust his own judgment, but the sentence of a wise spiritual guide, or of counsel learned in the laws.

5. One thing only I advertise in order to practice: Let no man think that because some subjects farm the customs, and that the portion which is concealed, does not lessen the incomes of the prince, therefore it may be lawful to hide from them all which they can hide. For the farmer hath what he gets in the right of the prince, and in his own right he hath nothing from the subject, but from his supreme; who therefore is bound to defend that right, and to complain of that wrong; and the husbandmen in the gospel, who denied to pay to the stewards of the king the fruits of the vineyard, which, in their king's right, were demanded of them, were thrown into outer darkness.

6. But then, as St. John Baptist gave counsel, "the tribute-men and farmers must exact no more than is appointed them;" nor yet in cruel and vexatious manners, nor with the exactest and utmost measures, but with such moderation as may be far from rapine. "Tributorum et fisci nunquam mala causa nisi sub bono principe," was an old saying; "Whatsoever was demanded by the tribute-gatherers, it was all justice, whether it were right or wrong, unless the prince were gentle and good." But the vulture-like greediness and unconscionable, unchristian, and avaricious proceedings, which are too frequent amongst such men, have made the name of exactors and publicans[q] so infinitely, so intolerably hateful.

> Curandum in primis, ne magna injuria fiat
> Fortibus et miseris. Tollas licet omne, quod usquam est
> Auri atque argenti; scutum gladiumque relinques
> Et jacula et galeam: spoliatis arma supersunt[r].

It is not good to provoke the valiant by making them poor

[q] Quid est publicanus? Nonne caput rapinæ, et violentiæ? Quid est publicanus? Prædo sine pudore, medius exterminii. Nonne immanior furibus publicanus? Fur namque vel metuens furatur, hic autem delinquit confidenter. Fur laqueos tegit, timet, hic autem quicquid fecerit, legem putat. Lex furem deterret ab illicitis, hic ad iniquum malitiæ suæ compendium legem trahit. Quis eo iniquior qui verbis justitiæ justitiam damnat, et armis innocentiæ spoliat, vulnerat, occidit innocentes? lege utique legem pervertit, et dum urget ad legem, exlex est. Lauret. Episc. Mediol. in Homil.

[r] Juvenal. viii. 121. Ruperti. 2d ed. pag. 168.

and miserable; for they that have not a cloak, may have a sword: and by how much you make them the less considerable in peace, they are the more dangerous in war. And therefore covetous princes are to themselves the greatest enemies, excepting only their more covetous exactors.

CHAP. III.

OF KINGS, PRINCES, AND ALL SUPREME CIVIL POWERS, AND THEIR LAWS IN SPECIAL.

RULE I.

The supreme Power in every Republic is universal, absolute, and unlimited.

1. THAT in every commonwealth there is a supreme power, is without all question: there is no government without superiority; and where there is a superior, there is a supreme; for he is so, that hath none above him. It matters not, whether this supreme power be subjected in one or many, whether it be parted or united: the consideration of these is material as to the goodness or badness of a government, but nothing to the power and absoluteness of it, nothing to the present rule. And therefore it is but a weak and useless distinction, when we speak of kings and princes (by them meaning the supreme power), to say that some are absolute, some are limited in their power: For it is true, that some princes are so; but then they are not the supreme power. It is a contradiction to say, that the supreme power is limited, or restrained; for that which restrains it, is superior to it, and therefore the other is not supreme. And therefore Albericus Gentilis said well, 'that he doubted concerning the kings of France and Spain, whether they were supreme princes, because in the affairs of religion they are subject to the pope.' He that hath the supreme power, is only under God; and to inquire concerning a king, whether he be tied to laws or conditions, is not properly an inquiry after his power, but after the exercise and dispensation of it. For though he may not always use it, yet the supreme power always is absolute

and unlimited, and can do what he please. The difference of a tyrant and a king or a gentle prince being only this, that a tyrant uses his absolute power unreasonably and unjustly and ordinarily; but a king uses it not but in cases extraordinary, for just and good ends: and if the prince does not, some else must, who, in that case, is the supreme. Sometimes the consuls, sometimes the dictators, sometimes the senate, did do extraordinary acts of power; but still they who did it, had the supreme power: and that is necessary, and inseparable from government, that, I mean, which is supreme: ἄκραν ἐξουσίαν, κυρίαν ἀρχὴν, κύριον πολίτευμα, the Greeks call it; 'majestatem,' the Latins: and be it in whom or in how many it happens, that power can do every thing of government, and disposes of all things in order to it, and is accountable to no man. For suppose a king that hath power of the militia, and his senate of making laws, and his people by their committees of raising money; this power of making war, and laws, and levies, is the supreme power, and is that which can do all things: and although one be accountable for money, and the other subject to laws, and two of them under the power of the sword, yet this is but the majesty or supremacy parted, and whether well or ill, I dispute not, yet when it is parted and when it is united, it is supreme, and it is all. That government which Aristotle calls λακωνικὴ, δοκεῖ εἶναι βασιλεία τῶν κατὰ νόμων, οὐκ ἔστι δὲ κυρία πάντων, "seems (says he) to be a kingdom, but yet subject to laws, but is not the mistress of all;" and this is true in many European governments: but there is another government where the governor is πάντων κύριος εἷς ὤν, "lord of all, and but one person;" that is the perfect monarchy: but yet that is no greater power than is in every kind of government: for be it where it will, somewhere or other, in all government, there must be a supreme power, and that power is absolute and unlimited. For suppose a king that could be questioned by his senate, deposed, judged, condemned, as Diodorus Siculus[1] tells of the kings of Egypt; yet they that judge the king, cannot be judged themselves, if they have right to judge him; or at least they must stand at a judicatory, that cannot be judged, and there is the supremacy placed. Now this being thus stated, the rule is clear, and the Jews expressed it

[1] Lib. 2.

by an odd device of theirs: for when their king died, they tied his thumb so in the palm of his hand, that the wrinkles of the fist should, in a manner that might be fancied, represent שַׁדַּי which signifies 'almighty:' to denote that he was God's vicegerent, and under him had the whole power of government. He had in his right hand a power like the power of God; but the other hand was open and had let it go.

2. Now that this is true, is apparent by all the same reasons, by which the necessity of government is proved. It is necessary, that it should be so; for there are some states of things, for which nothing can provide but this 'absoluta potestas,' 'supreme and unlimited power;' as at Rome, when the Gauls had almost possessed themselves of all, and in many cases of their appointing dictators, and in sudden invasions, and in the inundation of tumults, and in all cases where laws are disabled to speak or act,—"ne respublica aliquid detrimenti patiatur," 'that the public should by all means be preserved,' is the greatest necessity they can have, and that is the great end of power; and either the commonwealth is like a helpless orphan, exposed to chance and violence, and left without guards: or else she hath so much power as to use all means for her safety. If she have not a right to do all that she naturally can, and is naturally necessary, she is deficient in the great end of government: and therefore it must be certain, she hath absolute power: now wherever this is subjected, there it is habitually, there it is always. I do not say it is always there, where it is sometimes actually administered; but there it is habitually from whence it is concredited actually, and put into delegation and ministry: and this is the power, that can do all things of government, and because it is supreme, and it is so always, it cannot be at any time less in judgment, because it is greater in power; that is, it is accountable to no man whatsoever it does.

Qui rex est, regem, Maxime, non habeat[t].

3. This supreme power is commonly expressed by 'potestas regia,' or 'kingly power,' or power imperial; though when the emperor was lord of the world, to be a king in most places went much less: but because most kings have

[t] Martial. ii. 18. Mattaire, pag. 37.

been and are supreme in their own dominions, by this word we commonly mean the supremacy or the majesty. So Suetonius[u] speaking of Caligula, says he was very near "speciem principatus in regni formam convertere," "to change the government into a kingdom," that is, to make it absolute and supreme:—and this distinction Piso[x] used concerning Germanicus, "Principis Romani, non Parthi regis esse filium," meaning, that the Parthian kings were absolute, but the Roman princes ruled with the senate: and Cæsar tells that Vercingetorix was put to death, because he, being but the prince of the Gauls, affected the kingdom. *Βασιλεὺς αὐτοτελὴς ὄντως καὶ αὐτοκράτωρ καὶ ἑαυτοῦ καὶ τῶν νόμων, πάντά τε οἷα βούλοιτο ποιῇ, καὶ πάνθ' ὅσα ἂν μὴ βούλοιτο μὴ πράττῃ.* So Dion[y] described the power of a king, for that which they understood to be the supreme power.

Σύ τοι πόλις, σὺ δὲ τὸ δήμιον,
Πρύτανις ἄκριτος ὤν,
Κρατύνεις βωμὸν ἑστίαν χθονὸς.
Μονοψήφοισι πυμάσι σέθεν, &c.

So the people in Æschylus[z] speak to their king; "Thou art our city, our commonwealth, above all judicatories, thy throne is sacred and immured as an altar, and by thy suffrage, by thy own will, thou governest all things."—This is the 'jus regium,' this the supreme power can do, it can be no less than this in its own nature and appointment. So the power is described in Theophilus[a]: *Πᾶσαν βασιλεῖ δέδωκε κατὰ τοῦ δήμου ἐξουσίαν*, "He hath given to the king all power over the people."—So it is described by Livy[b]: "Reges, non liberi solum impedimentis omnibus, sed domini rerum temporumque, trahunt consiliis cuncta, non sequuntur;" "Kings are not only free from all lets and encumbrances, but are lords of times and things; they by their counsels draw all things after them, but follow not."—The Greeks call this supremacy, *ἐπιτάττειν ἀνυπεύθυνον ὄντα*, "a power to rule without danger of being called to account by men;"—St. Ambrose calls it, "non ullis ad pœnam vocari legibus, tutos imperii potestate;" "a power that is safe in its own circles, and can by no laws be called to punishment:"—*τὴν*

[u] Caligul. cap. 22. ed. B. Crus. vol. 1. pag. 509.
[x] Tacit. Annal. 2. cap. 57. Oberlin. Lond. ed. vol. 1. pag. 155.
[y] Lib. 53.
[z] Supplic. 375. ed. Butler, vol. 2. pag. 18.
[a] Decad. 1. lib. 9.
[b] Lib. 1. 10. cap. 18. Ruperti, vol. 1. pag. 640

πρώτην ἀρχὴν, that is Galen's word, "it is the chief or prime principality."—"The king alone" (or he or they, who have

——— toto jam liber in orbe
Solus Cæsar erit ——— [b]

the kingly power) "is free;" all others are under compulsories and judges. But St. Peter's phrase is better than all of them, Ὑποτάσσετε τῷ βασιλεῖ ὡς ὑπερέχοντι· The king is the most eminent, the defender of all: and above all, ὑπερέχει, ὑπερμαχεῖ, ὑπερασπίζει, saith Suidas. The king or the supreme hath the power of defence, the power of the sword, and that commands all the rest: for ὑπερέχων, ὑπερνικῶν, it signifies to be more than conqueror. So the grammarians.

4. But in order to conscience, kings and princes, I mean all supreme powers, must distinguish "potestatem imperii ab officio imperantis;" that is to be considered by subjects, —and this, by princes; supreme princes always have an absolute power, but they may not always use it. He that hath a sword by him, is not always tied to use it, and he must cut his meat with a knife. Κατὰ τάξιν τινὰ βασιλεία, ἡ δὲ ἀόριστος τύραννις, says Aristotle; "It is a kingdom when it is by rule and measure, but if it be unlimited, it is a tyranny:" that is, when affairs are capable of a law and order, the supreme power must so conduct them; he must go in that path where they stand; but if they grow wild and irregular, he must go out of his way to fetch them in again.

5. But then it is also to be considered, that the absolute power of the prince is but an absolute power of government, not of possession; it is a power of doing right, but not a power of doing wrong: and at the worst, is but a power of doing private violences for the security of the public. This power is excellently expressed in the tables of the royal law written to Vespasian; "Uti quæcunque ex usu reipublicæ et ex majestate divinarum, humanarum, publicarum, privatarumque rerum esse censebit, ei agere, facere, jus potestasque sit, uti Augusto fuit." Augustus Cæsar was the most absolute prince that ever ruled the Roman people; to him was granted, saith Alciat[c], to be free from laws, and all the necessity of laws, to be obnoxious to no law written, and to have all the power

[b] Lucan. ii. 280. Oudendorp. pag. 127.

[c] De Magistrat.

of kings: and yet all that power was but 'to do every thing which he should esteem to be useful to the public, and according to the majesty of religion, and all human rights public and private.' And therefore he is 'princeps regni,' but not 'dominus,' 'a prince,' not 'a lord;' and the distinction is very material. For to be 'lord,' signifies more than the supreme power of government. "Qui primi fuerunt Romæ principes, etsi poterant videri revera domini, vitabant tamen valde domini nomen, veluti contumeliam ac maledictum: non vitaturi si esset nomen solius honoris, aut moderatæ potestatis," saith Suetonius[d]; "The first princes of Rome esteemed it a disgrace to be called lords, because it was not a name of mere honour, or of a moderate power; for if it had, they would not have declined it:" but it means an absolute power to dispose of all lives and all possessions; which is beyond the power of the king or prince. He that is a king, rules over a free people, but a lord rules over slaves. Tacitus[e], according to the popular humour of the Romans, supposed the power of a king to be too great a violation of liberty; but domination or lording it was intolerable. "Principatus et libertas res sunt dissociabiles; magis tamen sunt dissociabiles libertas et dominatio;" for to be the absolute lord cannot consist either with freedom or propriety: and therefore Ovid[f] prefers Augustus before Romulus in this very instance; for speaking to Romulus of Augustus, he says,

Tu domini nomen, principis ille tenet.

'Augustus is a prince, a gentle governor; Romulus was a lord;' that is, something that no man loves, but every man serves and fears. This power is well expressed by St. Peter's word of κατακυριεύειν, a power not ministering to good, nor conducted by moderation.

Maximum hoc regni bonum est,
Quod facta domini cogitur populus sui
Tam ferre, quam laudare ——— [g]

When the people must suffer the will of their imperious lord

[d] Is the *whole* of the preceding quotation to be found in Suetonius?—He says of Augustus (cap. 53) "domini appellationem, ut maledictum et opprobrium, semper exhorruit."—(J. R. P.)

[e] Tacit. in Agric. c. 4. "Nerva res olim dissociabiles miscuit, principatum ac libertatem."

[f] Fast. ii. 142. Gierig, pag. 68.

[g] Senec. Thyest. 205. Schroder. pag. 121.

and must commend it, that is, be a slave in their persons and their labours, their possessions and their understandings: that is more than a prince or a gentle lord will do; for then the word is good, when the man is gentle, and the power is moderate. But that which I intend to say, is this, that the supreme power of government is at no hand a supreme power, or an arbitrary disposer of life and fortunes; but according to law, or according to extreme necessity which is the greatest law of all. In the sense of honour and of moderate power, the king is a lord, but not in this sense of law. "Qui pleno jure dominus est, alienandi, dissipandi, disperdendi jus habet," saith the law[h]. By 'a lord' is meant he, that hath power to dispose of the goods of the vassals: and this a king or a prince hath not. This is not the supreme power of government. A king is not the lord of his kingdom, of the territories of his subjects, "quia dominium in solidum non possit esse duorum," saith Cujacius; "There cannot be two absolute lords of the same land;"—the right owner is the lord, not the right king. "Aliter reipublicæ sunt agri, aliter privatorum. Numquid dubium est, quin servus cum peculio domini sit? dat tamen domino suo munus. Non enim ideo nihil habet servus, quia nihil est habiturus, si dominus illum habere noluerit," said one; "The servant is within his lord's peculiar, but yet he can make a present to his lord. If his lord please, the servant shall have nothing; but yet it follows not, that therefore he is possessed of nothing." Now if this be true in slaves, much more, infinitely more, is it in free subjects; for otherwise are my lands my own, otherwise they are the prince's. "Jure civili omnia regis sunt," saith Seneca[i]; "et tamen illa quorum ad regem pertinet universa possessio, in singulos dominos descripta sunt;" "By the law all things are the king's; but even those things are divided into peculiars, and have private lords."—It is all the prince's lands, and he receives the service and the duty of them all; but the lords receive the rents. The Athenians and the Thebans fight concerning the bounds of their territory; and at the same time Polyænus and Thysias are at law about dividing their shepherds' walks in the same place. "Sub optimo rege, omnia rex imperio possidet, singuli do-

[h] L. 7. de Relig. l. sed etsi, lege 25. sect. Consuluit, ff. de Hæred. Petit.
[i] De Benef. lib. 7. cap. 4. §. 2. Ruhkopf, vol. 4. pag. 315.

minio;" "The king governs all, but the subjects possess all their own[k]:" for so Livy might buy his own books of Dorus; they were Dorus's books, and Livy's too: and when a lord receives his rent, the tenant may call the lands his own. Some things are mine by possession, some by use; some by title, some by incumbency; one is the author, and another is the buyer; one is the artificer, and another the merchant, of the same thing; and the king hath the power, but his subjects have propriety. "Cæsar omnia habet; fiscus ejus privata tantum, ac sua: et universa in imperio ejus sunt, in patrimonio propria[l]." That is the sum of this inquiry. The king hath all, and yet he hath something of his own in his peculiar, and so have the subjects.

6. The effect of this consideration is this: that the supreme power must defend every man's right, but must usurp no man's. He may use every man's peculiar for the public necessity, and in just and necessary government, but no otherwise; and what is out of any peculiar expended for the public defence, must out of the general right be repaid for the private amends. "Verum etsi nostra tempore necessitatis patriæ conferre debeamus, tamen jure naturæ congruit ut communis salus, communis utilitas, commune periculum, non unius duntaxat aut alterius, sed communibus impensis, jacturis, periculisque comparetur," said Cicero[m]. A king is to govern all things; but to possess nothing but what is his own. Only concerning the necessity, if the question be, 'Who shall be judge;' it is certain that it ought to be so notorious, that every man might judge: but he who is to provide against it, is certainly the only competent person, and hath the authority. For he that is to stand against the sudden need, ought to espy it. But if ever there be a dispute, who shall judge of the necessity, it is certain, the necessity is not extreme; and if it be not, yet it ought to be provided against, when it is intolerable. Ahab had no right to take Naboth's vineyard; but if the Syrian army had invaded Israel, Ahab might have put garrison in it, or destroyed the vines, to have saved or served his army.

7. And to this sense Lyra expounds the 'jus regium,' 'the right of the king,' described by Samuel[n] to the people of

[k] Id. cap. 5.
[l] Id. cap. 6.
[m] 4. ad Herennium.
[n] 1 Sam. viii.

Israel: "for (saith he) there is a double right; the one in the days of necessity, and then all things are in his power so far as can truly serve that public necessity: but when that necessity is over, that right is useless, and is intolerable." And by this means the different opinions of the Jewish doctors may be reconciled. Rabbi Jose says, that 'whatsoever is here set down, it was lawful for the king to do.' Rabbi Juda says, that 'this description was only to affright the people from persisting in their desire of a king.' Both might say true: for that it was not lawful in ordinary government to take the peculiar of the subject, appears clearly in the case of Naboth. But that in extraordinary it is just, needs no other argument but because it is necessary: and it appears also in the case of David and Nabal, upon whom David would have done violence, because he sent him not provisions for his army out of his own peculiar. But it is considerable, that this royal power described by Samuel is no more than what is necessary to be habitually inherent in all supreme powers; this is 'potestas imperantis;' he may 'licite facere in tempore necessitatis, legitime semper,' 'in time of need he may use it lawfully, but always legitimately,' that is, if he does, he only abuses his power, but it is his own power which he abuses: for when Moses[o] described the usage and manner of a king, he did it by the measures of peace and piety, and the laws of natural justice and equity, with the superfetation of some positive constitutions, which God commanded for that king, as part of the judicial law. But when Samuel described the manner of their king, he described the whole power in ordinary and extraordinary; the power, I say, but not the office: Moses described the office, but not the power.

8. I add to this another consideration; that whether all that the Hebrew king did or might do, was warranted by God or no, it matters not to us. For if it be no more than the necessary requisites of supreme power to be used in time only of necessity, we need not fear, that this precedent can injure the rights of any people: but if there were in it something more than was good, it was certainly a peculiar of that people, who desired a king to rule over them as the neighbour-nations had; right or wrong, they stood not upon that; and therefore Samuel described to them what that was which they

[o] Deut. xvii.

required. It was no warranty to the king to do so, but to the people to suffer it: but if it was ill, it was their own desire; for so the neighbour-kings did govern, using too much of their power, and too little of their duty and office. And therefore God was angry with his people, not that they desired a king: for God gave them three things in charge, say the rabbies, which they should do when they came into the land of promise, that they should blot out the name of Amalek,—that they should choose a king,—that they should build a temple. Therefore the choosing of a king was not it that offended God, but that they should desire that a king should reign over them in the manner as the gentiles had: for they thought, saith Josephus, *οὐδὲν ἄτοπον εἶναι τῶν πλησιοχώρων βασιλευομένων τὴν αὐτὴν ἔχειν αὐτοὺς πολιτείαν*, "that all would be well, if they had the same form of government as the nations had." Now their neighbour-nations were governed the most tyrannically, and the people served the most slavishly, in the whole world:

——— dociles servire Sabæos.

"The Sabæans (says Claudian[p]) were apt to serve:" "Dociles herilem ferre manum Syros et Parthos, et omnes qui aut ad orientem aut ad meridiem sunt barbaros," said Julian[q]; "All the Syrians and Parthians, and all the nations of the east and south, were used to slavery;" "contentos sub regibus vivere dominos imitantibus;" their kings were absolute lords of possessions as well as of tribute and government; and the people were pleased to have it so: and the Israelites would follow their example.—"Ecce in hoc errarunt" (says a Jewish doctor), "quod Israelitarum conditio non est, ut judicet eos rex aliquis pro sua voluntate, ut imperatores gentilium, qui sanciunt populis suis leges, quascunque animis concipiunt;" 'Their error was in desiring such a king as the gentiles had; for their condition would not suffer it that their king should make laws according to his own will and humour, as did their neighbour-kings, who were proud and barbarous, and counted easiness of access a lessening of majesty, and would be bound by no measures but their own will:' and therefore said God to Samuel, "They have not rejected thee but me;" that is, 'they would have a king, not

[p] viii. 306. Gesner, vol. 1. pag. 106. [q] Contr. Christian.

such as I have commanded in my law, but such as they see among their neighbours, who make laws themselves without me.'—And therefore, although God commanded Samuel to hearken to them, and make them a king; yet by terrors, like those of Mount Sinai, he first made them confess their fault, and therefore to submit to a king of God's choosing, who should reign by God's law.

9. So that it is to no purpose, that this place hath been so tortured by interpreters, and pulled in pieces by disputation; while they contend on one side, that this was a description of the king's power,—on the other, that it was a prediction of matter of fact: for it was neither one nor the other alone, but a description of the manner of the heathen kings; and a representment of what it was which they asked, and what was like to be the effect of that power, which they desired God would set over them: but the question of the extent and liberties of the supreme power is no way concerned in it. For it matters not, what the eastern and southern kings did: for they did that in ordinary, which is not to be done, but in cases extraordinary; they did that for pleasure, which was not to be done but for necessity. But as to the thing itself, nothing can be more certain, but that, 1. In all republics, somewhere or other, there is a supreme power. 2. That this power can do all things of government; so that nothing is so great, but if it be necessary, it is just and can be done: for if there were any time, and any case, in which evil may happen, and no provisions may be made for it, in that case, and at that time, it is an anarchy, there is no government at all. 3. That this supreme power, being a power of government, must also be a conservator and great minister of justice: and therefore must suppose every man's right to be distinct, and separate, and firm: and by consequence, that he hath nothing to do with men's proprieties, but to defend them in peace, and use them in war so as is necessary, that is, so as is unavoidable; according to that saying of Maimonides; "Potestatem habet rex ordinandi mundum juxta id quod præsens hora postulat." There are some sudden accidents, against which there are no regular provisions in laws; but to provide for them at the instant by extra-regular means, is within the power of the supreme. But in all this whole

question, the saying of Baldus[r] is the best measure of the consciences of princes: "Clausula de plenitudine potestatis semper intelligitur de potestate bona et laudabili." The plenitude of power, of all things in the world, ought the least to be feared, because it never is to be used but for the greatest good.

Upon the occasion of this discourse the lawyers sometimes dispute,

10. Whether it be lawful, and in the power of the supreme prince or magistrate, to alien or lessen his princely rights, or to give away any part of his kingdom.

11. But to this the answer is easy. For, (1.) Whatsoever is their right by just conquest, or is ἐν μέρει κτήσεως ἰδίας, 'in their private possession,' they may alien as any private person may his lands. Thus Solomon gave the חבל twenty cities (which his father-in-law the King of Egypt had conquered and given him with his wife in dowry, and which himself had won) to Hiram. Alexander gave all his kingdoms to his princes that served him in his wars. Attalus gave Asia to the people of Rome; Nicomedes gave Bithynia: the father of Mithridates had Paphlagonia by gift: and in England it was said, that Edward the Confessor gave England by will to the bastard of Normandy: and divers of our kings did in their wills at least recommend a successor; Edward VI. did, but it came to nothing. But when the donor or donee respectively can make it good, then it holds in law, and not otherwise; for questions of this nature used to be determined by the sword, and not by discourses.

12. (2.) But yet this is certain, that where the princes are trustees of the people, and elective, or where the right of succession is in a family by law or immemorial time, no prince can prejudice his heir, or the people that trusted him. Nothing is here to be done without consent, not only because the alienation cannot be verified against consent [in which case Charles VI. of France, desired his will might be confirmed by the nobles; and the King of Macedonia went up and down to all the cities to recommend to them Antigonus, whom he desired to make a king]; but because in these cases, though kings have the supreme power, yet they have

[r] 1 Consil. 245.

it not 'pleno jure,' by a fulness of dominion. It may be, as Aristotle calls it, παμβασιλεία, παντελὴς, αὐτοκράτης, καὶ ἀνυπεύθυνος βασιλεία, "a full, supreme, absolute, and entire principality;" yet by not being in full and entire private possession it is by all rights to be administered, but without wrong cannot be aliened. Hottoman[a] will by no means admit, that in any case a kingdom can be aliened: because it is the case of persons as well as of things; and they cannot be disposed of like slaves or beasts. But he considers not, that subjection to princes can best stand with personal liberty; and this cannot well be secured without that: for where there is no civil government, every man that is stronger, can make me a slave; but by the power of a prince I am defended in my liberty: and Hottoman's objection must needs be invalid, unless there be no liberty but where there is no government.

RULE II.

The supreme Power is superior to the civil Laws, but not wholly free from them.

1. This rule hath been thrust into great difficulty by the interests and mistakes of princes and subjects respectively. For it hath been disputed, whether princes be free or no from the laws of their kingdom; and things of this nature, when they once are questioned, are held more pertinaciously, and desired more greedily, and possessed suspiciously, and conducted with jealousy, and looked upon with envy or indignation. For the prince, if it be but disputable, will yet conclude for his own interest; and it is argument enough for him that it is so, because it is not certain that it is not so. And the subjects will, upon the same account, suppose the prince bound to his laws, because they know nothing to the contrary; and therefore they presume for the authority of the laws, as the prince does for the immunity of his person. But then because it is questioned, the prince, lest he lose it quite, will hold it faster; and the people will snatch at it more impotently, lest they be slaves for ever. And

[a] Illust. Quæst. 1.

therefore disputations in this case are not prudent or safe; but precepts, and sermons, and great examples, and the sayings of wise men, and positive affirmations in those particulars that be manifest.

2. "Princeps legibus solutus est," said Justinian[t]; "The prince is not tied to laws:" for it seems impossible that he that hath power over the law, he that gave it being, and can give it a grave, should be less than that which hath no greatness, but what it borrows from him. Indeed, if the prince had divested himself of his power, when he made the law,—he had been subject to it; but then he could have no power to abrogate it: which because it is inseparable from the legislative power, it follows that the life of the law is in continual dependance from, and therefore in minority and under, him; and therefore the lawyers have a proverbial verse,

Non est rex legi, sed lex obnoxia regi.

For a law, without a compulsory power, is nothing but good counsel at the best; and the supreme power cannot be compelled: for he will not compel himself, he cannot; he may be willing, but he can never force himself; and to the supreme no man is superior, and therefore none else can compel him: and therefore the divines use to say, and so do the lawyers too, that kings are subject to the directive power of the laws. The distinction I acknowledge, but believe it here to be to no purpose: for laws have no such power, and a directive power is no power; for if it can only direct, it is not a law, for a law obliges, and does not only direct: and as for the mere matter of counsel, the prince need not be at the charge of a law for that; his counsellors, his bishops, his lawyers, his friends, can do that without a law. The same thing is usually said concerning just men. "Justis lex non est posita," saith the Apostle; "The law is not made for the righteous, but for the wicked:"—that is, the compulsory of laws is not at all designed for them that obey without compulsion. Not but that the just are under the power of laws, and the laws were made to command them the particulars and the instances of obedience; and if they prevaricate, they shall feel it. But they are so willing to obey, and so love government and the virtues commanded

[t] Instit. d. tit. 2.

by the laws, that the laws are of no use to good and just men, but to direct them to what is required of them; and so they are under that which is improperly called the 'directive power' of laws; but princes are not so. The supreme power may, if he will, obey; so may the just man: but this man must obey or he shall be punished, but not so the prince. The laws of themselves may direct the prince; but it is, because he will have it so: but they direct the just, because they have authority to command, and to punish, only that the just will not let it come so far. It is but a shadow of liberty to say, I am not under the compulsion, but the direction of laws: for such persons, if they will not be directed, shall be compelled, and it is better to be willing than unwilling; for call it what you will, you are commanded to do it, and you must obey. Now this being the case of the just subject, and not the case of the supreme power, whether just or unjust, it is clear that the prince or supreme power is not subject to any power of the laws; the law is no commandment to the prince, and whatsoever is nothing but counsel, is no law.

3. And yet on the other side, we find good princes saying otherwise; and they who are apt enough to advance their own power, yet confessing their power to be less than the law, that is, that themselves are bound to keep it: so said the emperor [u]; "Digna vox est majestatis regnantis, legibus alligatum se principem profiteri," "It is a voice worthy the majesty of a prince, to profess himself tied to his laws."—"Patere legem, quam tu ipse tuleris," said the wise man; "Suffer the law which thou thyself hast made;"—the same with that of Pittacus;

Pareto legi quisquis legem sanxeris.

And the equity of this, besides that it is apparent, is also given in the law [x]; "Nihil tam humanæ fidei consentaneum est, quam ea quæ placuerunt servari." If they have pleased the prince in the sanction, let them also please him in the observation, for that is agreeable to the faith and ingenuity of worthy persons.

4. These things are but seemingly opposed, for both parts are true, and are to be reconciled by the following measures.

[u] C. de legib. et constit. l. 4. [x] L. 1. ff. de pactis.

5. (1.) The supreme power is not under the fear of the laws, but is to love the virtue and order that are there commanded. For there is a necessity introduced by public honesty as well as by fear. And therefore the Greek lawyers in their commentaries upon that of the institutions, that the prince is free from laws, expound it to be meant of penal laws; that is, they cannot be punished for prevaricating, or for not keeping them: and Decianus said the same thing: "Non quia iniqua liceant, sed quod non timore pœnæ sed amore justitiæ:" It is no more lawful for princes to do unjust things, than for their subjects; but they are invited to do worthy things, not because they are to fear the punishment of laws, but because they must love justice; and there is that necessity for them to do so, that there is of being great and honoured. The laws of honesty, of fame and reputation, which amongst all good men are the guards of virtue, must endear it also to kings: so Claudian[y] to Theodosius,

> Tu licet extremos late dominere per Indos,
> Te Medus, te mollis Arabs, te Seres adorent;
> Si metuis, si prava cupis, si ducoris irâ,
> Servitii patiere jugum; tolerabis iniquas
> Interius leges. Tunc omnia jure tenebis,
> Cum poteris rex esse tui. Proclivior usus
> In pejora datur, suadetque licentia luxum,
> Illecebrisque effrena favet. Tum vivere caste
> Asperius, cum promta Venus. Tum durius iræ
> Consulitur, cum pœna patet. Sed comprime motus:
> Nec tibi quid liceat, sed quid fecisse decebit,
> Occurrat, mentemque domet respectus honesti.

A king is not to consider the greatness of his power, but of his duty: and not reckon upon his impunity, but his reputation[z]; and because he does not fear the public rods and axes, let him respect public honesty: so Accursius affirms: "Principem, etsi legibus solutus sit, honestatis tamen necessitate omnino teneri oportere:"—and this is the sentence of Decius and most lawyers. But "Honestas non videtur inferre necessitatem," say the lawyers. This does not make it simply necessary: but it persuades vehemently, and upon princes, whose honour is both conscience and interest too, it

[y] viii. 257. Gesner, vol. 1. pag. 103.

[z] Vestri consilii; vestræ prudentiæ est spectare quid deceat vos, non quantum liceat. Cic. pro Rabirio.

differs but little from it. For it makes that they ought to do what is fit. But in kings it is true what Muscornus [a] Cyprius says; "Verbum illud 'debet' non coactionem, sed rationalem quandam persuasionem denotare videtur." It is their duty, and they ought to do it; and that signifies every thing but compulsion. However, a prince is only free from one compulsory which is upon his subjects: but is under many which touch not them. God [b] enjoins him a greater duty, and exacts it with greater severity, and will punish their delinquencies more sharply: "Potentes potenter," saith the Wisdom of Solomon; "Mighty men shall be mightily tormented;" and "Tophet is prepared for the king."—Kings have a greater need in their affairs than the small fortunes of their subjects; and therefore have need of a greater piety to secure so great a providence. They have more to lose, and therefore need a bigger caution to secure it; they have more at stake to endear obedience: and since a king is but one person, and is strong only by the obedience of his subjects, and that obedience is secured only by love, and that love can no way be obtained but by beneficence and justice; if he breaks these securities, he may have cause to consider that of Tacitus [c], "princeps unus est civium et senatus consensui impar," "that one man against a multitude is nothing;"—and that the senate and the people are stronger, and need not fear him alone, but he alone may have cause to fear all them together [d]; and that the sins of a prince are often punished by the sins of the people. He can consider that he is to govern a multitude, whom nothing can unite but an almighty power; that they are as contingent in their love and hatred, as chance itself; that no fortune in a king is moderate; that when it declines, it oftentimes runs to extremity; that he seldom hears truth, never meets with a bold and a wise reprover; that he hath many flatterers, and but few friends; that he hath great powers of doing evil, and temptations and opportunities always ready; that his very being superior to laws leaves his spirit infinitely unguarded

[a] Hieron. Muscornus tract. de Jurisdict. et Imp.

[b] Principes qui superiorem non habent, plus puniuntur à Deo; et itaque cavęant sibi, ne peccent. Castr. 11. cap. de Jud.

[c] Annal. xii. 5. Ruperti, vol. 1. pag. 292.

[d] Vindicta certè maxima in nobis sita est. Cogunt timere? odisse rursum possumus: justa odia superant omne vindictæ genus. Mours.

and spoiled of one of the greatest securities of virtue; that impunity is a state of danger; that when virtue is left only under a counsel and cold recommendation, and is not made necessary by laws, he had need have a great and a mighty virtue to make it necessary by love and choice; and that such perfect virtues are but rarely obtained, and after a long practice; that 'fear is the beginning of wisdom;' and therefore princes are very much to seek in this particular, because they have nothing to begin with; and to choose virtue for love is not usual with beginners, but is the consummation of the most perfect; so that we may well pray, "God help poor kings," who if they do virtuously, must needs be infinitely dear to God, because it is so extremely difficult to be so; and nothing can make them so, but two conjugations of miracles,—the excellences of the Spirit of God, and the spirit of a king. So that it is no privilege to kings that they are above the power of the laws; it is their objection, and the evil of their state. Only it is necessary to others that these should dwell in danger: and as for their obedience to laws, it is not bound upon them by the same cord that ties the subject, but by another; it is not necessary for the same reasons, but it is by a greater necessity.

6. (2.) But then these supreme compulsories, being wholly conducted by the hand and providence of God, do plainly tell us that the supreme power is obliged to all the laws of God, to the laws of nature and Christianity. A king hath no power to govern but according to God's laws. For if he does, though he have no compulsory below, yet above there are enough, and to God's laws the greatest power on earth is entirely subordinate.

Νόμος ὁ πάντων βασιλεὺς
θνατῶν τε καὶ ἀθανάτων κ. τ. λ.

"The law is the supreme king of all," said Pindar[e]. The same is also said by Chrysippus, by Aristotle, and divers others: and Plato [f] affirms that destruction is imminent upon that city, where the magistrate governs the law, and not the law the magistrate: and again; Ἄνομος μοναρχία χαλεπὴ καὶ βαρυτάτη συνοικῆσαι, "The prince that rules not by laws, is nothing but a grievance to his subjects."—But that these great

[e] Incert. frag. i. Heyne, vol. 1. p. 58. ed. Bliss. [f] 4. de Leg.

persons mean the laws of God and nature, is explicitly plain in Plutarch[g], who having affirmed that the law must rule the prince, adds by way of explanation, that it be that law, *οὐκ ἐν βιβλίοις ἔξω γεγραμμένος, οὔτε δέ τισι ξύλοις, ἀλλὰ ἔμψυχος ὢν ἑαυτῷ λόγος, αἰεὶ συνοικῶν καὶ παραφυλάττων, καὶ μηδέποτε τὴν ψυχὴν ἐῶν ἔρημον κηδεμονίας*, "not which is written in books or tables, but the law of reason, that always dwells within; that law that always is his guard, and never suffers the soul to be without a guide," that is the law that is superior to princes. Some little instances of particulars of this law were decreed by Servius Tullius king of the Romans; of which Tacitus[h] says, "præcipuus Servius Tullius sanctor legum fuit, queis etiam reges obtemperarent;" "he made laws of that nature, that even kings themselves should obey them." For as

Regum timendorum in proprios greges,

So it is as true,

Reges in ipsos imperium est Jovis[i];

"As the people are subjects of the prince, so is the prince of God; they must obey their king, and their king must obey God:"—concerning whose law it was said to Domitian by Apollonius Tyanæus[k], "Hæc mihi dicta sint de legibus, quas si tibi imperare non putaveris, ipse non imperabis;" "If thou dost not think these laws ought to rule over thee, thou shalt not rule at all."

7. Upon this account a prince may not command his subjects to fight in an unjust cause, according to that saying of St. Jerome[l], "Cum dominus carnis Domino spiritûs adversum imperat, non est obediendum;" "We must not obey the rulers of this world, the lords of our flesh, when they command any thing contrary to the laws of the God and Lord of all spirits."—The commands of princes must be, as Tertullian says, "intra limites disciplinæ," "within the bounds of our religion;" and therefore the Athenians laughed at Stratocles for desiring them to make a law, that whatsoever pleased King Demetrius, should be the measure of piety to the gods, and of justice amongst men. God's law is the measure of the prince's power; not his will the measure

[g] Lib. de Regno. [h] Annal. 3. cap. 26. Ruperti, vol. 1. pag. 150.
[i] Horat. Od. iii. 1. [k] Apud Philostratum. [l] In Ephes. vi.

of that: and therefore the Jews that were soldiers under Alexander, could, by no tortures, be compelled to assist in the building of the temple of Belus in Babylon; and the Theban legion under Julian the Apostate refused not to fight for their prince against the barbarians, and they refused not to die; but they refused to be executioners of the martyrs, that died in the cause of Christianity.

8. But this is to be practised, that the prince's just laws be not neglected upon the arrest of every fancy or foolish opinion. If it be certain that it is against the law of God, then we are safe in our disobedience. "Idcirco Romanas leges contemnimus, ut jussa divina servemus," said Sylvanus[m] the martyr; "Because we are sure these Roman laws are against the commandments of God, we easily despise them." But if we be not sure, but are in doubt whether the laws be just or no, we are to presume for the laws, and against our own fears. For nothing is at all of advantage due to the laws, if we prefer before them any opinion of our own, which we confess uncertain; and although we are not to do any thing of which we doubt, yet, in a doubt we are to obey laws, because there is a doubt on both sides: and as we fear the thing is unjust, so we have reason to fear the evil of disobedience, for we are sure that is evil; and therefore we are to change the speculative doubt into an active judgment, and a practical resolution, and of two doubts take the surer part, and that is to obey; because in such cases the evil, if there be any, is to be imputed to him that commands, not to him that obeys, who is not the judge of his prince, but his servant. "Servus herilis imperii non censor est, sed minister;" said Seneca; 'They that are under authority, are to obey, not to dispute.'—But of this I have given an account already in book 1, chap. 5, rule 6.

9. (3.) But then concerning the civil laws of his country, we are to distinguish; for some concern the people only,—and some concern the prince only,—and some are common to both. Those that concern the people, are such as require tribute, and labours, and manners of trade, their habits and dwelling. In these and all such, the people are obliged and not the prince: for the duties are either relative and concern their part only of the relation; or else, by the nature of the

[m] In Martyrol. Rom.

things themselves, do point out their duty, and in these things there is no question. For not the king but the people are to pay tribute; and the king's lands are free, if they be in his own possession.

10. (4.) But there are some laws, which concern the prince alone, as all acts of grace, and ease to the people; all that he hath been pleased to promise, the forms and laws of government, and to whatsoever himself hath consented, by all those laws he is bound; because in such cases as these, it is true what Pliny said to Trajan in his panegyric[o]; "In rostris quoque simili religione ipse te legibus subjecisti: legibus, Cæsar, quas nemo Principi scripsit. Sed tu nihil amplius vis tibi licere, quam nobis." The prince had not a law imposed upon him, but he became a law unto himself; and when he hath bound himself, there is the same necessity upon him as upon his subjects.

11. (5.) Other laws yet do concern both prince and people; such as are all contracts and bargains. "Licet serviant ædes meæ, ei tamen cum quo agitur, non serviunt; quantum enim ad eum pertinet, liberas ædes habeo[p]:" "Although my house is bound to serve the public necessity, yet in respect of him that contracts with me, my house is free."—So also it is in the acquisition of new rights, the repetition of the old, and generally in all those things that are established by the law of nature, or do concern him personally, and not in the capacity of a king. Thus saith the law[q]; "In imperfecto testamento nec imperatorem hæreditatem vindicare posse sæpe constitutum est," "The prince cannot be heir, if the testament of the dead man be illegal." Sometimes and in some places, it may be, fewer witnesses will serve in the prince's case than in another man's; but then it is, because fewer in his case are required by law; but still the law is his measure as well as of his subjects,

12. (6.) The great laws of the kingdom do oblige all princes, though they be supreme. Such were those which were called 'the laws of the Medes and Persians;' whose princes, although they were the most absolute and supreme, yet they were inferior to those laws, as appears in the Book of Daniel. These are by way of eminence called 'leges regni,'

[o] Cap. 65. 1. Gierig. pag. 203. [p] L. 4. Si serv. vind.
[q] Lib. 3. cap. de testa.—Lib. 6. cap. qui test. fac. po.

'the kingdom's laws.' Such are, the golden bull of the empire: the law Salic and the pragmatical sanction, in France; the Magna Charta and the petition of right in England; and in other countries the like, as who please may, particularly for Spain, see in Mariana [r]. This is confessed by all, and it relies upon natural justice, the prince having consented to it; it is either 'sponsio principis,' or 'conditio regnandi;' he was admitted either upon that condition, or with it.

13. (7.) Whatsoever the prince hath sworn to, to all that he is obliged not only as a single person, but as king: for though he be above the laws, yet he is not above himself, nor above his oath, because he is under God; and he cannot dispense with his oath or promise in those circumstances and cases, in which he is bound. And therefore, although the prince is above the law, that is, in cases extraordinary and privileged cases, and the matter of penalties; yet he is so under all the laws of the kingdom, to which he hath sworn, that although he cannot be punished by them, yet he sins, if he breaks them. Not that the law does bind him, for it cannot bind without a compulsory; and against him the law hath no such power: but yet he is bound to the law, though not by it; the obligation comes not from the law, but from other causes, from his promise, his oath, his contract, his religion, his reputation, his fear, his hopes, his interest, and especially from God himself. For it is carefully to be observed in this particular, that though a promise gives a man right to the thing which is promised, it does not always give him a right over the person. A king is like him that promises a thing under a curse; if he fails, the injured person is not to curse him, or to inflict the curse upon him, but that is to be permitted to God alone. And therefore if a king swears to his people to make no law without their consent, he is bound to perform his word; but if he does not, God, and not they are to punish the perjury. The king's promise, or cession, or acts of grace, do never lessen or part his power, but they tie his person. An act of parliament in England, if it be made with a clause of perpetuity, that if an act should be made to rescind it, it should be void, that first act of itself is invalid. "Clausulæ deroganti si derogetur, valet ut posterius testamentum, ita posterior constitu-

[r] Lib. 20.

tio," say the lawyers. Concerning which Cicero hath written an excellent epistle to Atticus[s]. It is as if a man should make a will to annul all future wills of his own; it shows indeed that he had then a mind to have that to be his standing will: but how if his mind change? Constantine made a law, that widows and orphans should not be cited to the emperor's court for judgment, or compelled to come, though he himself should command them: but yet if he did command them, that first rescript stood for nothing. Antiochus III. commanded the magistrates not to obey him, if he commanded any thing against the laws: but if he should command any such thing, it were not safe for them to urge himself against himself. The Roman emperor bade his officer use his sword against him, if he broke the laws: but this gave him no power over his prince, in case he had gone against the laws; it is nothing but a confident promise, and an obligation of dishonour and his conscience, of which God alone is the superior and the guardian.

14. The custom of supreme princes, swearing to govern by laws, was very ancient: we find an example of it amongst the Gothic kings in Cassiodore; amongst the late Greek emperors in Zonaras and Cedrenus. Anastasius[t] the emperor sware to observe the decrees of the council of Chalcedon; Adrian the emperor sware, that he would never punish a senator but by the sentence of the senate; and Trajan, having promised to rule with justice and clemency, consecrated his head and right hand to the anger of the gods, if he broke his word: and Plutarch tells, that the kings of the Cossari sware to the Epirots, that they would govern according to the laws. And indeed abstracting from the oath and promise, kings are bound by natural justice and equity to do so: for they are not kings, unless they govern; and they cannot expect obedience, unless they tell the measures, by which they will be obeyed; and these measures cannot be any thing but laws, which are, at first, the will of the prince; and when they are published to the people, then they are laws, but not till they be established by rewards and punishments, which are the portion of the people good and bad. Now this is the natural way of all good government, there is no other; and to govern otherwise is as unnatural as to give children meat at

[s] iii. 24. [t] Cassiod. var. lib. 10. 16, 17.

their ears, and hold looking-glasses at their elbows that they may see their face. If kings be not bound to govern their people by their laws, why are they made? by what else can they be governed? by the will of the prince? The laws are so; only he hath declared his will, and made it certain and regular, and such as wise men can walk by, that the prince may not govern as fools govern, or as a lion does, by chance, and violence, and unreasonable passions. "Ea quæ placuerunt, servanda," saith the law[u]. If this had not been the will of the prince, it had been no law; but being his will, let it be stood to: when the reason alters, let his will do so too, and the law be changed, that the measures of right and wrong, of obedience and disobedience, may be known.

15. We have seen how kings are bound; the next inquiry is, how they are freed, and how they are superior to laws. Antonius Augustinus says, that by the 'lex regia,' or the 'jus regium,' kings, that is, the supreme power, are only freed from some laws: and this he gathers from the words of the royal law[x] written to Vespasian, "Uti quibus legibus ne Augustus teneretur, iis Vespasianus solutus esset: quæque ex quaque lege Augustum facere oportuit, ea omnia Vespasiano facere liceat;" "Where Augustus Cæsar was free, Vespasian should be free: but those things which Augustus ought to do, all those Vespasian might."—The word 'liceat' in his case was modestly put in; not but that 'oportuit' had been the better word to express his obligation, as well as the duty of Augustus: but it was therefore chosen to represent that to be expected from him, but could not be exacted; it was his duty, but no compulsion lay near him: but certain it was, that the power of the people being devolved upon him (for it had been a popular government), as the people were bound to the laws which themselves have made, so was the prince. The people were, for there was none else to keep them: but therefore so was the prince, for he had but the same power which the people formerly had, when they were supreme. But then that they were tied but to some laws, and not to others, is very true: but so, that he was tied to all those laws which were intended to oblige him directly, and indirectly to all the rest, that is, to govern the people by their measures only.

[u] L. 1. ff. de pactis. [x] Authent. si quis de Eden.

16. But now if we inquire from what laws they were freed, and what is the right of a king or the supreme power more than of the people: I answer,

(1.) It consists in that which we in England call 'the king's prerogative;' in the civil law the 'lex regia,' or 'Vespasian's tables;' by the Jews חק, the δικαίωμα βασιλέως 'the statute or proper appointment of the king:' the particulars of which are either described in the respective laws of every people, or are in their customs, or else is a power of doing every thing that he please that is not against the laws and customs of his people, without giving a reason. "Cum lege antiqua, quæ regia nuncupatur, omne jus omnisque potestas populi Romani in imperatoriam translata sunt potestatem," saith the law[y]. Amongst the Romans that was the 'jus regium,' that the prince could do all that ever the people could: now what that was, we find in Dionysius, by the concession of Romulus: "Populus magistratus creanto, leges sciscunto, bella decernunto;" "The people might create magistrates, make laws, and decree peace and war."—That is the right of kings, or the supreme power[z]. Guntherus hath summed them up from the laws and customs of the empire, and some ancient Italian governments.

> Ac primum Ligures, super hoc à rege rogati,
> Vectigal prorsus, eudendæ jura monetæ,
> Cumque molendinis telonia, flumina, pontes,
> Id quoque quod [a] Fodrum vulgari nomine dicunt,
> Et capitolicium certo sub tempore censum:
> Hæc Ligures sacro tribuerunt omnia fisco.
> Hæc et siqua pari fuerunt obnoxia juri,
> Prælati, proceres, missisque potentibus urbes
> Libera Romano reliquerunt omnia regno.

But the 'jus regium,' what it is in the consent of nations, who please may see in Aristotle's Politics, lib. 3 et 4; in Polybius, lib. 6; Herodotus in Euterpe; in Halicarnassæus, lib. 4, 5. 7; in Valerius Maximus, lib. 7; in Orat. quâ suadet Concordiam Patrum et plebis in fin. in Tacitus 4. Annal.; in Suetonius in Tiberio, c. 30; in Dion. lib. 53; and in the later politics, Fabius Albergatus, Zimara, Bodinus, Aretinus, and, generally, in the commentators upon Aristotle.

[y] Lib. 1. ff. de constitut. Princip. et sect. sed et quod Principi. Instit. de Jure. Natur. et præf. pandect. lib. 1. ff. de Offic. præf. præt. et Cod. de vet. Jur. enucleand. lib. 1. sect. sed et hoc. [z] Lib. 8. [a] Fodder.

17. (2.) It consists in the king's immunity from obligation to some solemnities of law to which his subjects are obliged. "Ratum esse actum, etiamsi actio non habeat plenam rectitudinem, dum jus non desit," say the lawyers. Of which nature is that for which Æneas Sylvius[b], afterward Pope Pius II., laughed at Henry VI. of England, that his public instruments had no test but his own, and he wrote 'Teste meipso,' 'Witness ourself:' in which the king doth imitate the King of kings, of whom St. Austin[c] says, "Testem se dicit futurum, quia in judicio suo non indiget testibus;" "He swears by himself, because he hath none greater; and is his own witness, because he needs no other:" and it is enough that a king says it, because his word ought to be great and venerable, as his power and his majesty. And it was not only in the matter of coercion, but of solemnities, true, which Justinian[d] said; "Omnibus à nobis dictis imperatoris excipiatur fortuna, cui et ipsas Deus leges subjecit;" "The fortune of the emperor is to be excepted from the edge and from the forms of laws, because God himself hath made the laws subject to the emperor."

18. (3.) The king is therefore 'solutus legibus,' or 'free from laws,' because he can give pardon to a criminal condemned: for the supreme power is not bound to his own laws so but that upon just cause he can interpose between the sentence and the execution. This the Stoics allowed not to any wise man, as supposing it to be against justice; and to remit due punishment, is to do what he ought not: for what is due is just, and what is against that, is unjust. All which is very true, but nothing to the purpose. For it is true, that it is but just that offenders should be punished; it is due, that is, they are obliged to suffer it; "pœna debita ex parte reorum," it is their debt, not the king's; they are obliged, not he: and yet it is just in him to take it, that is, he may: but he is not obliged in all cases to do it. And in this also he is an imitator of the economy of God, who, according to that of Lactantius, "legem cum poneret, non utique sibi ademit omnem potestatem, sed habet ignoscendi licentiam;" God and the vicegerent of God, when they make laws, have not exauctorated themselves: but as that law is an efflux of their authority, so it still remains within the same

[b] Com. Pii. 2. lib. 3. [c] Lib. 10. de Civit. Dei. cap. 26. [d] Nov. 105.

authority that they can pardon offenders. Thus David pardoned Shimei and Joab, and would fain have pardoned Absalom, if the hand of Joab had not been too quick for him. And this cannot be denied to the supreme power, because the exercise of this is one of the greatest virtues of a prince: which was well observed by Pericles on his death-bed, when his weeping friends about him praised, some of them his eloquence, some his courage, some his victories, lifting up his head a little," "Et quid hoc est? (saith he) aut parva aut fortuita laudatis: at illud maximum omittitis, quod mea opera nemo pullam vestem sumpserit."—That he had no public executions, that no man was put to wear blacks for his friend, was a clemency greater than all the praises of eloquence, or a prosperous fortune.

—— Quisquis est placidè potens
Dominusque vitæ servat innocuas manus,
Et incruentum mitis imperium regit,
Animæque paroit; longa permensus diu
Felicis ævi spatia, vel cœlum petit,
Vel læta felix nemoris Elysii loca[e].

But all the world commends clemency, the gentle hand of a prince, his unwillingness to kill, his readiness to save: for, "principi non minus turpia multa supplicia, quam medico funera;" "many executions are as great a dishonour in a prince's reign, as many funerals in a physician's practice[f]:" and therefore Cassiodore[g] says that "a good and a gentle prince will sometimes pass the limits of equity, that he may serve the ends of clemency;" "quando sola est misericordia, cui omnes virtutes cedere honorabiliter non recusant;" "for to mercy all other virtues count it honour to give place."—And this Charles V. and Maximilian II. signified by their device of an eagle perching upon a thunderbolt, with an olive in her beak: and Nerva and Antoninus Pius impressed upon their money a thunderbolt upon a pillow; to signify that vindictive justice ought to sleep sometimes. Now certainly this being so great an excellency in a prince, is not greater than his power. "Imperatori licet renovare sententiam, et reum mortis absolvere, et ipsi ignoscere; quia non est subjectus legibus, qui habet in potestate leges terræ," saith

[e] Sen. Here. Fur. 740. Schroder, pag. 56.
[f] Seneca de Clement. i. cap. 25. §. 1. Ruhkopf. vol. 1. pag. 473.
[g] Variar. 11.

St. Austin: "The emperor, who can make laws, is not subject to laws, or so tied to them but that he may revoke his sentence and pardon a criminal."

19. This, I say, is part of his royalty; but is only then to be practised, when it can consist with the ends of government, that is, when the public interest can be preserved, and the private injury, some other way, recompensed. These indeed are the general measures not of the prince's power, but of his exercising this power justly.

20. (1.) When the criminal is a worthy person and can be beneficial to the republic. Thus in the Low Countries a pardon, in ordinary cases of felony, is granted of course to him, that can prove he hath invented some new art: and one lately saved his life by finding out a way exactly to counterfeit old medals.

21. (2.) If the person hath already deserved well of the public. Thus Horatius Cocles was spared, though he killed his sister, because he got honour and liberty and safety and dominion to Rome by killing the three brothers, the Curiatii: and Solomon[s] spared the life of Abiathar the high-priest, because he bore the ark before David, and was afflicted in all his troubles.

22. (3.) When the criminal can be amended, and the case is hugely pitiable, and the fact not of greatest malignity. Thus oftentimes we see young men pardoned, and the first fault lightly punished; and because young Cæsar was in the flower of his youth and a princely boy, Sylla was more easily prevailed with for his pardon.

23. (4.) If the fault be private, and not brought to public courts, it is easily pardoned, though delated by a private information. "Conquiri ad judicium necesse non fuit:" Some things when they are made public, cannot be dismissed, but are not to be inquired after. It was the advice of Cicero to his brother Quintus, concerning a certain criminal.

24. But all this is upon supposition, that the crime be not of greatest mischief, or foulest scandal and reproach; for if it be, nothing can be taken in exchange for it; a great virtue cannot make compensation for a very great crime: and this is particularly true of treason, of which those words

[s] 1 Kings, ii. 26.

of Bartolus are to be understood; "De offensionibus erga dominum non est compensatio ad servitia eidem impensa;" "The services done to a lord cannot make satisfaction for a conspiracy against him."—And therefore the Romans caused Manlius Capitolinus to be thrown headlong from that rock, from whence he had thrown the Gauls when he saved the city. He produced the spoils of thirty enemies, forty donatives from generals, two civic crowns, eight murals; yet all would not save his life and get his pardon. But yet in these things the supreme power is so free from laws that it does these things irregularly; "Clementiam liberum habere arbitrium," said Seneca; "Clemency hath a great liberty, and a free choice:" but they are obliged only to see that the public be not prejudiced, and that every private interest be secured by causing amends to be made to the injured person where it can; and then it is true of every supreme prince which Seneca[h] advised Nero often to remember, "Occidere contra legem nemo potest; servare nemo, præter me;" "No man at all can put a man to death against the law; and none can save except the prince."

25. (4.) The supreme power is above the laws, because he can dispense,—he can interpret them,—and he can abrogate them,—he can in time of necessity govern by the laws of reason without any written law,—and he is the judge of the necessity. Thus the kings of Israel had power over the judicial laws, though of the divine sanction. For God forbade that the corpse of a malefactor should hang after sunset upon the accursed tree; but yet Maimonides says that the king "suspendit et relinquit suspensos diebus multis;" "he hangs them, and leaves them hanging for many days;" when it is necessary by such terror to affright the growing impiety of wicked men; that is, when the case was such, that the laws were capable of equity or interpretation. For this was not merely an effect of his power, but of his reason too. It was a custom among the Jews to condemn but one person in one day, unless they were in the same crime, as the adulterer and the adulteress; but the king might condemn many at once, when it was for the interest of justice and the republic. Thus their king could, by the prerogative of his ma-

[h] Id. pag. 442.

jesty, proceed summarily, sit in judgment alone without assessors, condemn upon the testimony of one, and by the confession of the party; which the sanhedrim might not do, but were tied to acquit him that confessed the fact. Add to these[i] the supreme can in some cases be judge and witness; that is, can himself condemn a criminal for what himself only saw him do. He can also be judge in his own case; as if he be injured, railed upon, defrauded, or the like; all which are powers above the law, and were here to be named for the understanding of the present rule; but how they are to be conducted is of distinct and special consideration, and to be reserved to their proper places. I end this whole inquiry with that of Statius[k],

> —— quid enim terrisque poloque
> Parendi sine lege manet? vice cuncta reguntur,
> Alternisque regunt. Propriis sub regibus omnis
> Terra: premit felix regum diademata Roma:
> Hanc ducibus frænare datum: mox crescit in illos
> Imperium superis ——

f There is nothing in the earth but is under a law and tied to obedience: all the earth are under kings, and the kings are under the Romans, and the Romans under their princes, and their princes under God,' who rules them by his own laws, and binds them to rule by their country's laws, and ties them to do justice, and is pleased when they show mercy. But as they are to do justice by the sentence of the laws, so they must not show mercy against law; for even the prerogative of kings is by law, and kings are so far above their laws, as the laws themselves have given leave. For even the ἄφεσις ἀκριβείας ἐν δέοντι, " the remission of the rigour of the law," the very chancery and ease of laws, is by law established.

[i] Vani capitis est existimare superiorem non posse evocare sine causæ cognitione. Innoc. in cap. ad aures de Temp. Ord.

[k] Silv. iii. 3. 48. Bipont, pag. 76.

RULE III.

It is not lawful for Subjects to rebel, or to take up Arms against the supreme Power of the Nation, upon any Pretence whatsoever.

1. When Nehemiah was deputed by Artaxerxes to be governor of Judea, and had commission to rebuild Jerusalem and the temple, the neighbour-kings that opposed him, were enemies to Artaxerxes, because Nehemiah was lieutenant to the king. "He that despiseth me, despiseth him that sent me," saith our blessed Saviour.—"Senatus faciem secum attulerat, auctoritatem populi Romani," said Cicero[1] of one that was deputed and sent from the senate; "He had the gravity of the senate and the authority of the commonwealth." Now this being true of the supreme power in every government, that it is 'potestas Dei vicaria,' 'it is the minister of God,' appointed by him, set in his place, invested with a ray of his majesty, intrusted with no power but his, representing none but him, having received the sword from his hand, the power of life and death from his warranty; it must needs follow, that he who lifts up his hand against that supreme person or authority that God hath appointed over him, is impious against God and fights against him. This the apostle expressly affirms, and there need no more words to prove the rule, "He that resists, resists the ordinance of God;" he does not say, 'He that does not obey, is disobedient to God,' for that is not true. Sometimes it is necessary not to obey, as it happened to the captive Jews under Nebuchodonosor, and to the apostles under their princes; they could not obey God and them too: and then the case of conscience was soon resolved. But they that could not obey, could die; they could go into the fire, suffer scourgings and imprisonments, that was their ἓν μέγα, their great sanctuary; which in behalf of the Christians Gregory Nazianzen thus expresses it; Ἓν ἔχω πρὸς πάντα φάρμακον, μίαν ὁδὸν εἰς νίκην (ἐν Χριστῷ καυχήσομαι) τὸν ὑπὲρ Χριστοῦ θάνατον, "I have but one remedy against all my evils, one way to victory, thanks be to Christ, I can die for him:" that is ὑποτάσσεσθαι καὶ μὴ ἀντιτάσσεσθαι, to obey where they can,—

[1] *of one*] C. Popillius.—See the eighth Philipp. cap. 8. a. 23. (J. R. P.)

and where they cannot, to be sure to lie down under the burden which they cannot carry. For though in some cases it is lawful not to obey, yet in all cases it is necessary not to resist.

2. I do not know any proposition in the world clearer and more certain in Christianity than this rule, and therefore cannot recount any greater instance of human infirmity than that some wise men should be abused into a contrary persuasion. But I see that interest and passion are always the greatest arguments, where they are admitted. But I have an ill task to write cases of conscience, if such things as these shall be hard to be persuaded: for there are very few things in which any man is to hope for half so much conviction, as in this article lies before him in every topic; and if I should determine no cases but upon such mighty terms as can be afforded in this question, and are given, and yet we prevail not, I must never hope to do any service to any interest of wisdom or peace, of justice or religion. And therefore I am clearly of opinion that no man, who can think it lawful to fight against the supreme power of his nation, can be fit to read cases of conscience; for nothing can ever satisfy him, whose conscience is armour of proof against the plain and easy demonstrations of this question. But this question is of the same nature as all clear and necessary truths, never obscure, but when it is disputed; certain to all men and evident, if they will use their own eyes; but if they call for glasses of them that make a trade of it, it may chance not to prove so. But I will speak of it with all easiness and simplicity.

3. The Scripture[m] is plain; "Curse not the king, no not in thy thought:"—*and*, "I counsel thee to keep the king's commandment, and that in regard of the oath of God—for he doth whatsoever pleaseth him. Where the word of a king is, there is power, and who may say unto him, What dost thou? against him there is no rising up." There are many more excellent words in the Old Testament to this purpose; but nothing can be plainer than these, dogmatically to establish the doctrine of the rule. No man can question him; no man may rise up against him; he hath power; he hath all power; we are, by the law or the oath of God, bound to keep

[m] Eccl. x. 20. viii. 2, 3. Prov. xxx. 31.

his commandment; and after all, we must not reproach him in our secret thoughts. No man needs this last precept but he that thinks the king is an evil man, or hath done wrong: but suppose he have, or that he is supposed to have, yet curse him not, 'Do not slight him,' so it is in the Hebrew[a]: 'Regni ne detrahas,' so it is in the vulgar Latin, 'Disparage not the king:' but the Chaldee paraphrase adds, "Even in thy conscience, in the secrets of thy heart, speak not evil of the king, and in the closets of the chambers of thy house speak not evil of the wise man; for the angel Raziel does every day from heaven cry out upon the mount of Horeb, and his voice passes into all the world: and Elihu, the great priest, flies in the air of heaven like a winged eagle, and tells the words, which are spoken in corners by all the inhabitants of the earth." By the way I only observe this, that we are forbidden to speak evil of the rich or the mighty man, the wise man, so the Chaldee calls him, that is, the princely men of the world, the magistrates and nobles, whom St. Peter calls τοὺς ἡγεμόνας διὰ βασιλέως πεμπομένους, "captains or rulers sent by the king:" of these we must say no evil in our private houses, lest a bird of the air, lest that which hath wings, that is, lest the angel that attends us, orders it so as to pass into publication: for the government of the other world reaches strangely even to us, and we speak not a word in vain, but by the Divine Providence it is disposed to purposes that we understand not. But when he speaks of the king or the supreme, whom St. Peter calls τὸν ὑπερέχοντα, then it is, Μὴ καταράσῃ τὸν βασιλέα ἐν τῇ συνειδήσει, μηδὲ ἐν κρυπτῷ τῆς καρδίας, "Call him not accursed in thy heart, not so much as in thy thought;"—which because it is only perceived by God, who is the searcher of the heart, it shows plainly that as angels take care of the rich and the wise, the mighty and the nobles, so kings are the peculiar care of God, who is the King of kings and the Lord of lords. But then (to leave all curiosities) if we may not speak or think reproachfully of the king, we may not do that which is more, and that which is worse: and I think there needs no more to be said. But it is as clear as the way.

4. In the New Testament, sufficient are the excellent words of our blessed Saviour, μὴ ἀντιστῆναι τῷ πονηρῷ, "not

[a] מלך לא תקלל

to resist evil,"—that is, not to stand against it, not to oppose evil to evil; which obliges all Christians, that, at least without the magistrate, they cause no return of evil to the offending person; that no man be his own avenger, for vengeance belongs to God, and he hath delegated that to none but to the supreme magistrate, who is Θεοῦ διάκονος ἔκδικος εἰς ὀργὴν, "God's minister to be a revenger of wrath under him." Now if no man must pay evil to his brother, that hath injured him, but by the hand of the supreme power,—how can it be possible that it can be lawful to render evil for evil to the supreme power itself? by whose hands shall that be done? by none but by his superior, who is God alone, who will take care to punish evil kings sufficiently: only we must not do it; we must not pray him to do it; for that is expressly against the words of Solomon, that is "cursing the king in our thought," and not at all to be done. But besides this, there are many more things spoken by our blessed Lord to determine us in this affair. "Render to Cæsar the things that are Cæsar's;"—and to Pilate Christ said, "Thou shouldest have no power over me, unless it were given thee from above;"—meaning, that Cæsar's power, whose deputy Pilate was, was derived from God, and consequently that, except God, none is greater upon earth than Cæsar:—and again: "If my kingdom were of this world, my servants would fight for me;" which plainly enough confirms the power of the militia in the supreme magistrate, Christ leaving it where he found it.

5. But that there may be no dispute concerning these things, the apostles, who are expounders of the words of Christ, and the meaning of his Spirit, tell us plainly, μὴ ἀντιτάσσεσθαι, 'to be subject,' ἐξουσίαις ὑπερεχούσαις, 'to supreme powers;—the same with St. Peter's, βασιλεῖ ὡς ὑπερέχοντι, 'to the king as to the supreme,'—that is, to the king, if he be a king indeed, if he be the supreme; to be the subject to these powers, and not to resist, for these reasons; 1. Because this supreme power is ordained of God: 2. Because he that resists, resists God, whose minister the prince is: 3. Because God hath armed the powers, which he ordained, with a sword of power and revenge: 4. Because it is for our good, that we submit to him; for he is God's minister for good, that is, for the public good, under which thine

is comprehended: 5. Because it is necessary: the necessity being apparent in the nature of the thing, and in the commandment of God: 6. Because God hath bound our conscience to it: 7. He hath tied this band upon us with fear also: and, 8. lastly, Because whoever does not obey, where he may lawfully, and whosoever does in any case resist,—shall receive damnation to himself, both here and hereafter; here, upon the stock of fear,—hereafter upon the account of conscience; for both for fear and for conscience we must obey in good things and lawful, and we must not resist in any. For indefinitely we are commanded not to resist, without any distinction or reservation of case: and "Ubi lex non distinguit, nemo distinguere debet." He that will go about to be wiser than the law, in equity, will not be better than a fool. This therefore is the sum of St. Paul's discourse[o].

6. St. Paul was the doctor of the gentiles: St. Peter of the Jews:—and therefore this doctrine is sufficiently consigned to all the world: for St. Peter[p] hath preached this as largely as St. Paul; "Submit yourselves to every ordinance of man, for the Lord," that is, for his sake, upon his commandment, for his honour; these ordinances being God's ordinances, ὑπὸ Θεοῦ τεταγμέναι, "they are ordained by God," all of them, the king principally,—his captains and officers, which he hath sent, in the next place. But him and his ministers we must receive and honour and obey, and submitto them; for it is God's case and his ministers; God and his ministers, and lieutenants, the king and his. He that despises him, whom the king sends, despises the king: and he that despiseth him, whom God sends or makes his deputy, despises God. Submit therefore, for it is the will of God; submit, for this is 'well-doing;' submit, for so 'we shall put to silence the ignorance of foolish men;" meaning, that since the enemies of Christ are apt to speak evil things of you, glad would they be, if they had cause to accuse you for not being obedient to government; and some are ignorant, and foolishly pretend the liberty and privileges of saints against the interests of obedience; the mouths of these men must be stopped, and you must submit to kings, that you may please God and confute the adversaries. Now the specification of this great duty, and the particular case of conscience, follow:

[o] Rom. xiii. per totum. [p] 1 Pet. ii. 13—17.

"Fear God, honour the king:"—"Servants, be obedient to your masters; not only to the good and gentle, but also to the froward." Τοῦτο γὰρ χάρις, "for this is thankworthy:" and this is full to the question in hand. For the general precept which St. Peter gave, is, Ὑποτάγητε πάσῃ ἀνθρωπίνῃ κτίσει, "Submit to every ordinance," to the king, to his magistrates or deputies, and captains, and lastly, submit to the lowest of all dominions, even servants to their masters; not only to the good and gentle, but to the morose and harsh. Now if so to inferior masters, whose dominion is no greater than their interest, and their interest is no greater than their price, and is still under the power of kings; much more to kings or to the supreme power. And indeed even subjection to kings is the gentlest and most eligible kind of service. "Then would my servants fight," said Christ, meaning it of the subjects of his kingdom:—and Livy calls "populum Romanum servientem regibus," they did 'serve' their kings. And indeed as the governments of the world then were, kings were most absolute, and the people entirely subject, and far from liberty: and therefore this of servants might very well be a specification and a particular of their duty to kings and captains; and whether it were or no, it is for the former argument, 'from the less to the greater affirmatively,' infinitely certain, that the same duty is due to kings, though harsh and cruel: for indeed there were then none else; Nero was the supreme, and he was none of the best that ever wore purple.

7. It were very easy to draw forth more arguments from Scripture to this purpose; but I forbear to name more than this abundance, which is contained in these now cited: but I shall not omit to observe, that the apostles did make use of that argument which I urged out of Solomon, that "we are not to speak evil of the king;" from whence the unlawfulness of resisting is unanswerably concluded: for St. Jude [q], giving the character of the worst of men, and the basest of heretics, reckons up in the bill of their particulars, that "they despise dominion, and speak evil of dignities;" which as it is an infallible mark of an evil person, so it is a using of a prince worse, than St. Michael the archangel durst use the devil; against whom, because he was a spirit of a higher order, though foully changed, he durst not bring a railing accusa-

[q] Jude viii.

tion, κρίσιν βλασφημίας "a judgment or accusation with blasphemy in it:" for all evil language of our superior is no better than blasphemy; "he did blaspheme God and the king," was the crime pretended against Naboth.

8. If, from the plain words of Scripture, we descen dto the doctrine and practices of the church of God, we shall find that all Christians, when they were most of all tempted, when they were persecuted and oppressed, killed and tormented, spoiled of their goods, and cruelly and despitefully used, not only did not rebel, when they had power and numbers, but professed it to be unlawful. But this I shall draw into a compendium; because it being but matter of fact, and the matter in Scripture being so plain that it needs no interpretation, the practice and doctrine of the church, which are usually the best commentary, are now but of little use in a case so plain. But this also is as plain itself, and without any variety, dissent, or interruption, universally agreed upon, universally practised and taught, that let the powers set over us be what they will, we must suffer it, and never right ourselves. Tertullian boasts with confidence, that when Pescennius Niger in Syria, and Clodius Albinus in France and Brittany rebelled against Septimius Severus, a bloody and cruel emperor, and pretended piety and public good,—yet none of the Christians joined with either. The Theban legion in the eighteenth year of Diocletian suffered themselves to be cut in pieces every man, six thousand six hundred sixty and six in number, by Maximianus the emperor; no man in that great advantage of number and order and provocation lifting up their hands, except it were in prayer: of these Venantius Fortunatus[r] hath left this memorial.

Queis, positis gladiis, sunt arma è dogmate Pauli,
Nomine pro Christi dulcius esse mori.
Pectore belligero poterant qui vincere ferro,
Invitant jugulis vulnera cara suis:

"They laid down their weapons and lift up their arms; they prayed and died in order: and this they did according to the doctrine of St. Paul." But when Julian was emperor, and apostate from his religion, a great persecutor of the Christians, and who by his cruelty (as Nazianzen[s] observes) brought the commonwealth in danger, though his army did

[r] Biblioth. Patrum, tom. 8. edit. Binign. [s] Orat. 1. in Julian.

most consist of Christians, yet they had arms for him, but none against him, save only that, by prayers and tears, they diverted many of his damnable counsels and designs. But the particulars are too many to recite what might be very pertinent to this question from antiquity. I shall therefore serve the interest of it as to this topic by pointing out the writings of the ancient doctors[t], where they have given testimony to this great article of our religion.

9. After him succeeded (Sabinianus being interposed for one year only) Boniface III. who obtained of Phocas to be called universal bishop: since when, "periit virtus imperatorum, periit pietas pontificum," says one, "the kings lost their strength, and the bishops lost their piety;" yet, in the descending ages, God wanted not many worthy persons to give testimonies to this great truth and duty. Such were Stephen VI.[u]; Gregorius Turonensis[x]; Fulgentius[y]; Damascen[z]; Leo IV.[a]; St. Bernard[b].

10. Now it is very observable, that, in the succession of about six ages, in which the holy doctors of the church gave such clear testimony of the necessity of obeying even the worst princes, and many thousands of holy Christians sealed it with their blood, there was no opposition to it; and none of any reputation, no man of learning, did any thing against the interest or the honour of princes, excepting only (so far as I have observed) Lucifer Calaritanus, who indeed spake rude and unbeseeming words of Constantius the Arian emperor; but that he may lessen nothing of the universal con-

[t] S. Clement constit. l. 7. c. 17. S. Irenæus lib. 5. Advers. hæres. c. 20. Justin Martyr, Apolog. 2. ad Antonin. Imperatorem, Tertullian ad Scapulam, et Apolog. adv. Gent. cap. 20. S. Cyprian ad Demetrianum, Hosius apud Athanas. ad solitariam vitam agentes, Liberius ibid. S. Hilary ad Imperat. Constantium, S. Athanasius ad Antioch. quæst. 55. et Apolog. ad Constant. vide etiam factum Basilii in Monodia Nazianz. inter opuscula Basilii, Nazianzen. 2. orat. contr. Julian. Optatus Milevitanus lib. 3. cont. Parmen. S. Chrysostom. orat. 2. ad pop. Antioch. tom. 6. edit. Savil. Et in 1 Timoth. c. 2. v. 1. S. Ambrose Epist. 33. ad Marcellinam, S. Cyril. in Evang. Johan. l. 12. c. 36. S. Hieron. comment. in 2. Dan. S. Augustin. lib. 4. de civit. Dei, c. 33. et lib. 5. c. 21. et in Psalm. 124. Et Epist. 54. ad Macedon. et tract. 6. in Johan. Anastasius P. Epist. unic. ad Anastasium Imper Symmachus P. ad eundem Anast. Imp. Leo. P. ad Leonem Imperat. et epist. 13. ad Pulcheriam, S. Gregor. Mag. Epist. l. 7. ep. 1.

[u] Apud Baronium, tom. 10. A. D. 885. n. 11.

[x] Hist. lib. 5. cap. 1. Concil. Toletan. 5. can. 2. et Concilium Toletan. 6. c. 14.

[y] Parallel. ad Thrasimundum Regem.

[z] Parallel. 1. c. 21. V. Bede, lib. 4. expos. in Samuel.

[a] Cap. de Capitulis. dist. 15.

[b] Epist. 221. to Louis le Gros: vide etiam epist. Walthrami Epis. Naumberg. quæ habetur in appendice Mariani Scoti.

sent to this doctrine, St. Ambrose[c] does lessen very much of his reputation, saying, that though he was with the true believers banished for religion, yet he separated himself from their communion. But in the next period, I mean after Gregory the Great, it was not unusual for the bishops of Rome to stir up subjects to rebel against their princes, and from them came the first great declension and debauchery of the glory of Christian loyalty and subjection to their princes; witness those sad stories of Pope Gregory VII. Pope Urban, and Paschal, who stirred up the emperor's sons against the father. I speak it to this purpose, because it produced an excellent epistle from the churchmen of Liege in behalf of the emperor and of their bishop, who with his chapter was excommunicated for adhering to his loyalty, and Robert earl of Flanders commanded by the Pope to destroy him and all his priests. But, in behalf of princes and the duty of subjection to them, many excellent things were spoken, divers judgments of God fearfully falling upon rebellious people are recited, not only in that epistle of the clergy of Liege, but in the life of Henry IV. emperor[d]. From all these fathers and ancient authors now cited, "magnum mundo documentum datum est". (that I may use the words of the author of the book last cited) "a great instruction and caution are given to the whole world, that no man rise up against his prince." For all these authors give clear and abundant testimony to these truths, that the power of the supreme magistrate is immediately from God,—that it is subject to God alone,—that by him alone it is to be judged,—that he is the governor of all things and persons within his dominions,—that whosoever speaks reproachfully of him cannot be innocent,—that he that lifts up his hand against him strikes at the face of God,—that God hath confounded such persons, that, against the laws of God, and their own oaths, and the natural bonds of fidelity, have attempted to spoil their supreme lords,—that Herman and Egbert, that did so, were confounded for so doing, as though they had never been,—that Rudolphus had his hand cut off and felt divers other of the divine judgments for this impiety.—And this being the constant universal doctrine of the church of God for twelve

[c] Orat. in Obit. Fratr. Satyri.
[d] In fasciculo rerum scriptd. published at Cologn. apud Simon. Scard.

hundred years, and this derived from the plain, the express, the frequent sayings and commandments of God in the Old and New Testament, declared by his prophets and apostles, and by his most holy Son himself, nothing can with greater certainty determine and conduct our conscience than this rule. For the confirmation of which I remember St. Bernard tells a pretty little story, in a sermon upon these words of Christ, 'I am the vine:' "Benè quidam rex cùm percussus hamatâ sagittâ," &c. "It was well said of a king, who being wounded with a barbed arrow," they that were about him, desired he would suffer himself to be bound till the head were cut out, because the least motion irregular would endanger his life: he answered, "Regem ligari nullo modo decet," "A king must at no hand be bound;" let the king be ever safe, but let his power be at liberty. I end this topic with the words of St. Austin[e] and of the sixth council of Toledo, "Non tribuamus dandi regni atque imperii potestatem nisi vero Deo," "Let us attribute the power of giving the right of empire to none but to the true God alone."— "Ille unus verus Deus qui nec judicio nec adjutorio deserit genus humanum, quando velit et quantum voluit, Romanis regnum dedit: qui dedit Assyriis, vel etiam Persis; qui Mario, ipse Caio Cæsari; qui Augusto, ipse Neroni; qui Vespasiano, vel patri vel filio, suavissimis imperatoribus, ipse et Domitiano crudelissimo; et ne per singulos ire necesse sit, qui Constantino Christiano, ipse apostatæ Juliano. Hoc planè Deus unus verus regit, et gubernat, ut placet:" "The one true God, who never leaves mankind destitute of right and help, hath given a kingdom to the Romans, as long as he please and as much as he please. He that gave the supreme power to the Assyrians, he also gave it to the Persians. He that gave it to Marius a common plebeian, gave it to Caius Cæsar who was a princely person. The same authority he gave to Nero that he gave to Augustus; he gave as much power and authority to the most cruel Domitian, as he gave to Vespasian and to Titus the gentlest and the sweetest princes; and to be short, he gave the authority to Constantine the Christian, and the same afterward to Julian the apostate; for this great affair he rules and governs as he please."

[e] Lib. 5. de Civit. Dei. cap. 21.

11. But all this is no more than what natural and necessary reason does teach all the world: "Hanc Deus et melior litem natura diremit[f]." For this which I have alleged from the fathers, is properly a religious reason, 'It is God's power which is in the supreme magistrate, whether he be good or bad: therefore whoever rebels, rebels against the power and dispensation of God;' and to this there is nothing reasonable to be opposed. But then that which I am now to say, is derived to us by the reason that every man carries about him, by the very law of nature.

> Naturam vere appello legem Omnipotentis
> Supremique Patris, quam prima ab origine rerum
> Cunctis imposuit rebus, jussitque teneri
> Inviolabiliter.———

By the law of nature I mean the prime law of God, which he unalterably imposed upon all men in their first creation, that by reason and wise discourses they should govern themselves in order to that end, which is perfective of human nature and society. The law of nature is the law of God, which is reasonable and necessary to nature: now by this law or necessary reason we find it very fit, that we should divest ourselves of the practice and exercise of some rights and liberties, which naturally we have. So Aristotle[g] observes: "Homines abductos ratione multa præter mores et naturam agere, si aliter agi melius esse sibi persuaserint," "Men do some things against their natural inclination, if by natural reason they find it best to do so." Now nature, having permitted every man to defend himself as well as he can, against violence, did, by an early experience, quickly perceive, that few men had power enough to do it against every violent man; and therefore they drew into societies, gathered their strength, and it was put into the hands of them, who by a joined strength could, and by promise and interest and duty would, do it: and by this means the societies had peace, and might live quietly. Now the natural consequent is this, that if all our power is united and intrusted to one head, we must not keep it in our hands. If the supreme power be the avenger, we must not meddle; if he be judge, we must submit, for else we are never the nearer to peace. For when we were so many single persons, we were always in war, but by unity

[f] Ov. Met. i. 21. [g] Polit. 7. cap. 13.

and government we come to peace: therefore whatever we could do alone, we having put into the common stock, our natural right of defence is in the public hand, and there it must remain for ever; and we are to be defended by the laws, and they only are now the ministries of peace. This is St. Paul's[h] argument, "I exhort that prayers and supplications be made for all men; for kings and all that are in authority, that we lead a quiet and a peaceable life in all godliness and honesty:" plainly implying, that the security and peace of societies depend upon the power and authority of kings and persons in eminency and trust: for none must make war, but he that does it for all men's interest; and therefore it is peace with all that are under government: but then that which is designed to keep peace, must feel no war from them, whom it is designed to keep in peace, that they may not feel the evils of war. If government be necessary, it is necessary that we should obey it; if we must obey it, we must not judge it; if we must not judge it, we may not endeavour to punish it: and there is nothing in the world a greater destruction to its own ends, than the resisting or rebelling against government; because if we be above it, how are we subjects? if subjects, how are we its judges? if no judges, how can we be avengers? if no avengers, why are we not quiet and patient? If we be not above, we are below; and therefore there let us abide: but if we be above, then we are the supreme power; and then it is all one. That which is said all this while concerns the subjects, and not the supreme, to whom, by our natural necessities, by a general contract of mankind, by the law of nations, by the command of God, and by the civil laws of all republics, the subject is bound, and does owe obedience and maintenance, and honour and peace. "Generale pactum est societatis humanæ obedire regibus suis," said St. Austin[i], "It is a covenant that all mankind have agreed in, to be obedient to their kings."

12. But all this is true: but since kings are for defence and justice, for good and not for evil, for edification and not for destruction, good kings must be obeyed; but what if they be evil and unjust, cruel and unreasonable enemies of their people, and enemies of mankind?

[h] 1 Tim. ii. 2. [i] Lib. 3. Confess. cap. 8.

13. This is that I have been saying all this while,—that let him be what he will, if he be the supreme, he is superior to me, and I have nothing to do, but something to suffer; let God take care, if he please, I shall be quickly remedied; till then I must do as well as I can. For if there be any case, in which the subjects may resist, who shall be judge of that case? can this case be evident and notorious? and does it always consist in 'indivisibili?' If it does not, then many things are like it; and who can secure that the subjects shall judge right? For if they were infallible, yet who will engage that they will not do amiss? what warranty have we against the ambition and the passion and the interest of the reformers of supreme powers? And is it not better to suffer inconvenience from one than from every one that please? But if you allow one case, you must allow as many as can be reduced to it; and who is not witty enough against governors, to find excuses enough to bring them down?

14. (2.) What remedy is there, in case the supreme power be ill administered? will not any remedy bring greater evils than the particular injustices which are complained of? It was well said of Xenophon [k], Ὅστις ἐν πολέμῳ ὢν στασιάζει πρὸς τὸν ἄρχοντα, πρὸς τὴν ἑαυτοῦ σωτηρίαν στασιάζει, "He that opposes his general and prince, opposes his own safety." For consider, what order can be in a family, if the boys rule their fathers and rebel against their command? How shall the sick be cured, if they resist the advice and prescriptions of the physicians? And they that sail, are like to suffer shipwreck, if the boatswain and the swabbers and the boys shall contradict the master. So it is impossible that there can be safety in a commonwealth, if they who are appointed to obey, shall offer to rule. Φύσει γὰρ ἀναγκαῖά τινα καὶ σωτήρια τῷ μὲν ἄρχειν ἐν τοῖς ἀνθρώποις, τῷ δὲ ἄρχεσθαι τέτακται, "For by nature it is necessary and profitable and ordered accordingly, that one should rule and the rest should be obedient."

15. And therefore, these wild cases are not to be pretended against that, which natural reason and natural necessity have established. We cannot suppose a king, that should endeavour to destroy his kingdom. We may as well suppose a father to kill his children, and that therefore, in some cases, it may be lawful for children to rebel against their fathers,

[k] Dion. Cassius.

turn them out of door, and, as they see occasion, cut their throats, that the inheritance may be theirs. Whom can we suppose worse than Julian, than Domitian, than Nero? and yet these princes were obeyed, and did never proceed to the extremity of such desperate hostilities: nay Nero, as bad as he was, yet when he was killed, was quickly missed; for, in a few months, three princes succeeded him, and there was more blood of the citizens spilt in those few months than in Nero's fourteen years. And who please, both for their pleasure and their instruction, to read the encomium of Nero written by the incomparable Cardan, shall find that the worst of princes do much more good than they do harm. But, "semper corpori grave est caput," "the head always aches, and is a burden to the shoulders," and we complain much of every little disorder. Put case a prince by injustice do violence to some of his subjects, what then? "Qui unum, qui plures occidit, non tamen reip. læsæ reus, sed cædis," said Seneca; "It is not the killing of some citizens that destroys the commonwealth:" and there are not many princes that proceed so far as to do open and professed wrong to the lives of their subjects; but many subjects have done violence, open and apparent, to the lives of their princes; and yet the subjects are aptest to complain. "Quis princeps apud nos regnavit è vicecomitum aut Sfortiadum familia, quem non aliquis civis noster, etiam sine causa, sed sola ambitione, ferro aggressus sit? pauci certe;" "Which of our princes of such and such a family hath not been set upon to be murdered by some of their subjects, without cause, but merely out of ambition? very few."—And he that reads Hector Boethius's History of Scotland, may say as much as Cardan, and for a long time. Every man complains of kings and governors; we love them not, and every little thing makes him a tyrant: but it is in this case as in the case of women, says Albericus Gentilis; 'we cannot be without them,—and yet we are not pleased, when we are tied to them.' If any such thing could happen, that a king had a mind to destroy his people, by whom should he do it? He alone can hardly do it; and he could hardly arm his people against themselves. But what should he get by it? he cannot be so unreasonable: but suppose it, what then? "Oppression will make a wise man mad," saith Solomon: and there are some temptations

bigger than a man's strength; and this would be one of them, and the people would be vexed into the sin of rebellion; and then, it may be, God would cut him off, and punish the people; and here would be calamity enough in this whole intercourse, but nothing lawful. For we have nothing dearer to us than our lives and our religion: but, in both these cases, we find whole armies of Christians dying quietly, and suffering persecution without murmur. But it cannot be done, it cannot easily be supposed, that an evil prince should be otherwise than one that is cruel and unjust, and this to fall upon some persons: for let him be lustful, he shall not ravish the commonwealth; and if he be bloody, his sword cannot cut off very great numbers; and if he be covetous, he will not take away all men's estates: but if a war be made against him, these evils will be very much more universal; for the worst of princes that ever was, hath obliged a great many, and some will follow him out of duty, some for fear, some for honour, and some for hopes; and then as there is no subject that complains of wrong, but he hath under the government received more right than wrong, so there is none that goes to do himself right (if that be all he intends, and not covetous and ambitious designs), but in the forcing it he will find more wrong than right.

16. (3.) But I demand, 'Are there no persons, from whom if we receive wrong we must not be avenged of them?' To a Christian it had been a more reasonable inquiry, whether there be any persons of whom we may be avenged. Certainly there are none of whom we may be avenged without the aid or leave of the public power. But what if our father do us wrong? may we strike him? Ὀργὴν πατρὸς φέρειν, "To bear our father's unjust wrath," was one of the precepts, the young man of Eretria had learnt of Zeno: and what then if we be injured by the public father? "Magno animo regis, velut parentis contumeliam tulit;" it was said of Lysimachus: "Et ut parentum sævitiam, sic patriæ, patiendo ac ferendo leniendam esse," said Livy. 'If we must bear with our fathers, so also with our princes.'—"Vi quidem regere patriam aut parentes, quanquam et possis, et delicta corrigas, inportunum est," said Sallust[1]; "Though it were in your power, though you might reform some evils, yet to rule your

[1] Bell. Jug. cap. 4. Havercamp. vol. 1. pag. 11.

parents or your prince by force is not reasonable."—And it was an excellent saying which Cicero[m] had from Plato[n]: "Id enim Plato jubet, quem ego vehementer auctorem sequor;—tantum contendere in republica, quantum probare tuis civibus possis; vim neque parenti, neque patriæ afferri oportere. Atque hanc quidem ille causam sibi, ait, non attingendæ reipublicæ fuisse; quod cum offendisset populum Atheniensem prope jam desipientem senectute, cumque eum nec persuadendo, nec cogendo regi posse vidisset, cum persuaderi posse diffideret, cogi fas esse non arbitraretur;" "To contend and fight in a commonwealth can never be approved by the citizens: strive so much as you can justify: but you must offer force neither to your parents nor to your country, that is, the supreme government of your country. And when Plato saw the people of Athens almost doting with age, he despaired of prevailing upon them by persuasion; but yet to compel them by force he concluded to be impious." But can any man lose by patience? hath it no reward? or is there no degree of counsel in it? that is, Is not some patience acceptable, though it be not necessary? shall it have no reward, if it be more than we are bound to? If it shall be rewarded, though it be greater than is simply necessary, then it is certain, that whatever we suffer under evil princes, to be quiet and peaceable is infinitely better than to resist: for that shall have a good reward: this seldom misses an ill one. But if there be no counsel, no degree of uncommanded patience, then all patience is necessary; for it is certain none is sin: for Christ was glorified by suffering the greatest injuries, and his martyrs have trodden the same way of the cross; and so must we, if God calls us to it, if we will be his disciples.

17. (4.) But again I consider, Does every subject, that is a wicked man, forfeit the right in his estate, otherwise than law appoints? Is dominion founded in grace? or is it founded in law and labour, in succession and purchase? And is it not so in princes? with this only difference, that their rights of government are derived from God immediately; for none but he can give a power of life and death: can therefore any one take away, what they did not give? or can

[m] Ad Divers. i. 8. Priestley's Cicero, vol. 4. pag. 22.
[n] See Havercamp's note on the preceding passage from Sallust.

a supreme prince lose it by vice, who did not get it by virtue, but by gift from God? If a law were made to divest the prince of his power in case of ill government, then he were not the man I mean, he is not supreme but subordinate, and did rule precariously, that is, as long as his superior judges will give him leave. But for the supreme he is sacred and immured, just as the utmost orbs of heaven are uncircumscribed; not that they are positively infinite, but because there is nothing beyond them: so is the supreme magistrate, nothing is above him but God: and therefore in this case, we may use the words of Livy; "Si quis adversus ea fecisset, nihil ultra quam inprobe factum adjecit lex;" 'If he does any thing against reason and justice, there is no more to be said but that it was ill done.' But if he does not do his duty, that is no warranty for me not to do mine; and if obedience and patience be a duty, then the one is as necessary, and the other is more necessary when he does not do what he ought. And after all, the supreme power in every Christian republic hath no power to kill a subject without law, nor to spoil him of his goods. Therefore neither can a subject kill or exauctorate the supreme at all; for there is no law to do it: and if he be the supreme power, he is also lawgiver, and therefore will make no such law against himself; and if he did, he were neither wise nor just.

18. Either then stop all pretences, or admit all. If you admit any case, in which the subjects may fight against their prince, you must admit every case that he will pretend who is the judge of one. But because government is by God appointed to remedy the intolerable evils of confusion, and the violence and tyranny of every strong villain, we must keep ourselves there; for if we take the sword, or the power, or the legislation, or the judicature, or the impunity, from the supreme, we return to that state of evil from whence we were brought by government. For certain it is, all the personal mischiefs and injustices, done by an evil prince, are infinitely more tolerable than the disorders of a violent remedy against him. If there be not a 'dernier resort,' or 'a last appeal' fixed somewhere, mischiefs will be infinite; but the evils that come from that one place, will soon be numbered, and easier suffered and cured.

19. It were easy to add here the sentences of the wise

heathen to this very purpose; for though religion speaks loudest in this article, yet nature herself is vocal enough: but I have remarked some already occasionally, to the same sense with that of Tacitus[o], "Imperatores bonos voto expetendos, qualescunque tolerandos:" so the wiser Romans at last had learnt their duty. The same also was the sentence of the Greeks[p];

Τὰς τῶν κρατούντων ἀμαθίας φέρειν χρεών·

"We must patiently suffer the follies of our rulers."—So did the Persians.

—— quamvis crudelibus, æquo
Paretur dominis[q],

"Though the lords be cruel, yet you must obey them as well as the gentle."—But I am weary of so long telling a plain story. He that is not determined by these things, I suppose, will desire to see no more. But if he does, he may please to see many more particulars in Barclay, in Grotius, in Monsieur de la Noue, in Albericus Gentilis, in Scipio Gentilis, in Bishop Bilson, in Petrus Gregorius and Bodinus. I conclude,—Many supreme princes have laid aside their kingdoms, and have exchanged them for honour and religion; and many subjects have laid aside their supreme princes or magistrates, and have exchanged them for liberty and justice. But the one got, and the other lost: they had real advantages; and these had words in present, and repentance in reversion.

RULE IV.

The supreme civil Power is also supreme Governor over all Persons, and in all Causes ecclesiastical.

1. If this rule were not of great necessity for the conduct of conscience, as being a measure of determining all questions concerning the sanction of obedience to all ecclesiastical laws, the duty of bishops and priests to their princes, the necessity of their paying tribute, and discharging the

[o] Histor. 4. cap. 8. Valp. ed. vol. 3. pag. 267.
[p] Eurip. Phœniss. 404. Porson.—Leips. ed. pag. 274.
[q] Claudian. In Eutrop. ii. 480. Gesner. vol. 1. p. 301.

burdens and relieving the necessities of the republic, I should have been unwilling to have meddled with it; because it hath so fierce opposition from the bigots of two parties, the Guelphs and the Ghibellines, from Rome and from Scotland, from St. Peter and St. Andrew, the Papist and the Presbyterian: and they have placed all their great interest and their greatest passions upon this question, and use not to be very kind to any man that shall at all oppose them.

2. From the church of Rome we have many learned men, servants of the pope, who affirm, that all government ecclesiastical belongs to him; that he only can make laws of religion,—that in that he hath a compulsory over kings, who are his subjects, dependant upon him, by him commanded in matters of religion;—to which all temporalities are so subordinate, that if not directly, as some of them say,—yet directly, as most of them say, 'in ordine ad spirituale bonum,' 'for the good of the church and of religion' he can dispose of them. The great defenders of this doctrine are, Bellarmine[r] and Baronius[s], Harding[t] and Eudæmon Johannes[u], Fevardentius[x] and Mariana[y], Boucher[z] and Ficklerus[a], Alexander Carerius[b] and D. Marta[c], Doleman[d], and generally the Jesuits, and all the canonists.

3. On the other side, the Presbytery pretends mightily to the sceptre of Jesus Christ, as the Pope does to the keys of St. Peter, and they will have all kings submit to that; as there is all the reason in the world they should: but, by this sceptre of Christ, they mean their own classical meetings, and the government that themselves have set up the other day; to which the first inventor of it was at first forced pitifully to beg suffrages of allowance, and that it might be endured; but as ill weeds use to do, it quickly grew up to that height, that like the bramble, it would be king, and all the birds and beasts must come under the shadow of it. The great masters of this invention after Calvin are, Beza[e], Cartwright[f], Lambertus Danæus[g], Gellius Snecanus[h], Guil. Bu-

[r] De Pontif. Rom. lib. 2. cap. 17.
[t] Contr. Apol. Eccl. Angl.
[x] In Comment. in Esther.
[z] De Justa Abdicat. Henric. III.
[b] De Potestate Papæ.
[d] Of the Broken Succession.
[f] In his Last Reply.
[h] Lib. Disciplinæ.
[s] Annal. Eccles.
[u] Contr. Episc. Eliens.
[y] In Theatr.
[a] De Jure Magistratuum.
[c] De Temp. et Spirit. Pontif. Potestate.
[e] De Presbyterio.
[g] Christian. Politia.

canus [i], Hermannus Renecherus [k], Buchanan [l], Christopher Goodman [m], Brutus Celta [n], Francisc. Hottoman [o], the author of the book called Speculum Tyrannidis Philippi Regis, and the Dialogue of Philadelphus [p]: and if any one would see more of these, he may find enough of them in the writings of that excellent and prudent prelate Dr. Bancroft archbishop of Canterbury.

4. Concerning the pretences of the church of Rome, they are as invalid as can be wished. For although there are some overtures of Scripture made, as 'Tibi dabo claves,' and 'Ecce duo gladii,' and 'Pasce oves,' which are strange arguments to considering persons to prove the pope superior to kings:—and concerning them I shall not need to use any argument, but set down the words of the Bishop [q] of Maestricht in an excellent oration of his recorded by Aventine: "Ambitiosi et superbi sunt qui illud Domini deique nostri elogium, 'quodcunque solveris super terram, &c. et quodcunque ligaveris erit ligatum,' &c. perfricta fronte interpretando adulterant, suæ libidini servire cogunt, et nobis ceu pueris et omnium rerum imperitis, astu illudere student." "They that expound such words of Christ to serve their pride or lust of empire, are impudent, and think us to be fools and children, and fit to be cozened and fooled out of our senses:"—Yet these arguments were made no use of to any such purpose for many ages after the apostles' death; and therefore, upon wiser accounts, they cause this great article to rely upon some prudential motives, and some great precedents and examples. The particulars I shall consider in the following numbers: but that which here lies in my way, is their great boast of the fact of Pope Zachary deposing Childeric king of France in the year 750, and appointing Pepin the king's marshal to be king in his room. Upon the warranty of this example Gregory VII. [r] endeavoured to justify his proceedings against the emperor Henry IV. Bellarmine will not endure with patience to hear, that any one did this feat but the Pope only; and on all hands they contend mightily that it was he, and not the nobles and

[i] Loci Comm. Theol.
[k] Observat. in Psal. i.
[l] De Jure Regni apud Scotos.
[m] Treatise of Obedience.
[n] De Jure Magistratuum.
[o] Francogallia.
[p] Dial. 2. p. 65.
[q] Lib. 5. Annal. Boior.
[r] Epist. ad Perimannum Epis. Metens.

people of France. They indeed were willing, but they had no authority, therefore they appealed to him as the ordinary judge; and he declared for Pepin, and God declared for that judgment that it was according to his will: for the event was blessed, Pepin was prosperous, and his son Charles the Great grew a mighty prince, and France a potent empire, and religion and the church had great increment and more advantages than before or since.

5. But when men judge of actions by the events, they only show themselves willing to be cozened by prosperity, and that they will endure nothing that hath affliction with it: but so they become advocates for the greatest villanies, because they could never come to their greatness if they were unprosperous. And therefore there is no judging of lawful or unlawful by the event, till the last event be tried: and at the day of our death and at the day of judgment, the event of things is the best argument and the best trial of right and wrong. But besides this, the folly of these men is infinitely seen in this very instance. For it is no wonder that the church of Rome was prosperous and did thrive upon that change: Pepin and Pope Zachary helped one another and divided the spoil; and Pepin and Charles having no warranty and reputation in that treasonable surprise of the crown of France, but what they had from the opinion the world then had of the Bishop of Rome, it concerned Charles to advance the papacy, that the papacy might support him. But "by all that is before him in this world, a man knows not whether he be worthy of love or hatred," saith Solomon: and a man's fortune is 'seen in his children:' and therefore if the pope's servants would look a little further than their own advantages, they might have considered what is observed by Paulus Æmilius and Beneventus of Imola, that in the days of Charles the Great, who was son to Pepin, the empire was divided (which was the curse in which God punished Solomon in the person of Rehoboam); that his son Ludovicus Pius was served just as his grandfather served his master the king: for his son Lotharius did most unnaturally rebel against him, deposed him and thrust him into a cloister; and that he himself felt the judgment of God, for himself also was deposed, and succeeded to by Lewis II., who was prosperous in nothing, but in every undertaking the

wind blew in his face. His son was 'Ludovicus nihili,' so they called him; a cipher of a king, and stood for nothing. He indeed left an heir to the crown: but he also was a man that had no heart, and his son had no head; for Charles the Bald was an extreme pitiful coward, and Charles le Gros was a fool. After these succeeded Arnulph, who was eaten up with lice, the sad disease of Herod; and in his son Lewis IV. that race was quite extinguished. And now if we judge of things by the event, have we not great reason, even upon this account, to suspect the fact of Zachary (though it was not his authority, but his consent and his confederacy with the rebel) to be extremely displeasing to Almighty God, when there was not one of his line but went away with a share of the divine anger? But such reasonings as these concern none but them who feel them; they may suspect the thing, and better examine their confidences, when they feel any extraordinary evils, which most commonly are the consequents of a great sin and a mighty displeasure. But others are to do as they should have done at first, go by rule, and not venture upon the thing to see what will become of it. Being now quit of this by which they have made so much noise, all their other little arguments will soon melt away, when they come to be handled.

6. But as for the other pretenders (viz. those of the Presbytery) to a power superior to kings in ecclesiastical government; they have not yet proved themselves to have received from Christ any power at all, to govern in his church; and therefore much less by virtue of any such power to rule over kings. I do therefore suppose these gentlemen not much concerned in this question, because they are incapable of making claim; not only because religion is no pretence to regalities, and that spiritual power is of a nature wholly different from the power of kings; but because if the spiritual were to be above the temporal, yet even then they are not the better. For they have not only none of that spiritual power, which can pretend to government, but it does not yet appear, that they have any at all: and this relies upon the infinite demonstrations of episcopal government and power; which being one of the words and works of Christ, must needs be as firm as heaven and earth. But if they be concerned, they will be concluded.

7. And first in general, it is necessary that the supreme power of kings or states should be governors in religion, or else they are but half-kings at the best[s],—for the affairs of religion are one half of the interest of mankind: and therefore the laws of the Twelve Tables made provision for religion as well as for the public interest.

> Jus triplex, tabulæ quod ter sanxere quaternæ,
> Sacrum, privatum, et populi commune quod usquam est[t].

And this is so naturally and unalterably entailed upon the supreme power, that when Attalus, the king of the Pergamenians, made the people of Rome his heir with these words only, "Populus Romanus bonorum meorum hæres esto," "Let the people of Rome be heir of all my goods;" by 'his goods' they understood, "divina humanaque, publica et privata," saith Eutropius[u], and Florus[x]; "all power in things public and private, human and divine." For since religion is that great intercourse between God and us, it is impossible to deny to him, who stands next to God, the care of that by which we approach nearest to him; and this I learned from Justin[y]: "Jure ille à Diis proximus habetur, per quem Deorum majestas vindicatur;" "He is rightly placed next under God, by whom the majesty of God is asserted."—And therefore the Christians must alter their style, and no more say that the prince is "homo a Deo secundus, et solo Deo minor" (which are the words of Tertullian), "next to God, and only less than him," if between God and the prince there is all that great distance and interval of the government of religion. He is the best and greatest person, that rules the best and greatest interest: and it was rightly observed of St Paul[z] concerning controversies civil, for money or land, "Set them to judge, who are least esteemed amongst you;" that is, of the least concern: but he that is judge of life and death, that is, the governor of bodies, and he that governs the greatest affairs of souls, he indeed ought to be of highest estimation. Bishops and priests are the great ministers of religion, but kings are the ἀρχηγοὶ, the great rulers and go-

[s] Cum jus conferendi opima sacerdotia ab Henrico Imp. vi fuerat extortum, ea res (inquit Paulus Æmilius, lib. 5.) multum virium imperatoriæ majestati detraxit in animis popularium, plus enim quam dimidium sum jurisdictionis perdidit.

[t] Auson. Idyl. 11. Delphin. pag. 346.

[u] iv. 18. Verheyk, pag. 199.

[x] iii. 12. 3. Duker, pag. 545.

[y] viii. 2. 7. Wetzel. pag. 122.

[z] 1 Cor. vi.

vernors of it. And this is easy to distinguish. For as the king's judges and counsel learned in the law minister law to the people, yet the king is the supreme judge in law; and the king's captains and soldiers fight his battles, and yet he is 'summus imperator,' and the power of the militia is his,—so it is in religion; it must be ministered by persons ordained to the service, but governed by himself: he is not supreme, unless he have all the power of government.

8. (2.) The care of religion must needs belong to the supreme magistrate, because religion is the great instrument of political happiness: "Ad magnas reipublicæ utilitates retinetur religio in civitatibus," saith Cicero[z]; and unless he have power to manage and conduct it, and to take care it be rightly ordered, the supreme power hath not sufficient to defend his charges. If the prince cannot conduct his religion, he is a supreme prince just as if he had not the militia; or as if he were judge of right but not of wrong; or as if he could reward but not punish; or as if he had cognizance but of one half of the causes of his people; or as if he could rule at land but not at sea, or by night but not by day. But now if an enemy comes with a fleet against him, will he send a brigade of horse to take a squadron of ships? The case is just the same; for if God breaks in upon a nation for the evil administration of religion, how shall the prince defend his people or answer to God for them? And this is no inconsiderable necessity: for besides that justice and charity, and temperance and chastity, and doing good and avoiding evil, are parts of religion, and yet great material parts of government and the laws, the experience of mankind and natural reason teach us, that nothing is so great a security or ruin to a state as the well or ill administration of religion.

Di multa neglecti dederunt
Hesperiæ mala luctuosæ[a]:

and Cicero[b], "Omnia prospera eveniunt colentibus deos, adversa spernentibus;" "The people that have care of religion, are prosperous; but unhappy, when they are irreligious."

Συνέχει δῶμα, saith Euripides[c]; and
Καλὼν δ' ἄγαλμα πόλεσιν εὐσεβὴς πόνος.

[z] De Divinat. 2. cap. 33. Davis. Rath. pag. 214. [a] Horat. Od. iii. 6, 7.
[b] Orat. 5. in Verrem. [c] In Bacchis. 386. and in Supplic. 383.

Religion is the band of families, and a strong foundation to commonwealths. Τὸ *συνεκτικὸν ἁπάσης κοινωνίας καὶ νομοθεσίας ἔρεισμα*, so Plutarch; "It is the ligature of all communities, and the firmament of laws:"—the same with that of Synesius: *Εὐσέβεια πρῶτον ὑποβεβλήσθω κρηπὶς ἀσφαλὴς, ἐφ' ἧς ἑστήξει τὸ ἄγαλμα ἔμπεδον τῆς βασιλείας*, "First let religion be settled, because it is the strong basis and column upon which a kingdom does rely."—And of this we have God himself a witness: "Seek the kingdom of heaven and the righteousness thereof in the first place; and all these things (that is, the necessities of the world and of this life) shall be added."—For so saith the Apostle, "Piety is profitable to all things, having the promise of the life that now is, and of that which is to come."—And to this that of Homer [d] rarely accords.

Ὥστέ τευ ἢ βασιλῆος ἀμύμονος, ὅς τε θεουδὴς
Ἀνδράσιν ἶν πολλοῖσι καὶ ἰφθίμοισιν ἀνάσσων,
Εὐδικίας ἀνέχῃσι· φέρῃσι δὲ γαῖα μέλαινα
Πυροὺς, καὶ κριθὰς, βρίθῃσι δὲ δένδρεα καρπῷ·
Τίκτει δ' ἔμπεδα μῆλα, θάλασσα δὲ παρέχει ἰχθῦς
Ἐξ εὐηγεσίης· ἀρετῶσι δὲ λαοὶ ὑπ' αὐτοῦ.

The sense of which is well enough rendered by that of Justinian [e], *Οὕπερ ἐν εἰρήνῃ φυλαττομένου, καὶ τὸ λοιπὸν ἡμῖν εὐθηνήσει πολίτευμα*, that he would take care concerning ecclesiastical government or the affairs of religion; "for if this be kept in peace, all the whole republic will be prosperously administered," "reliqua nobis exuberabit politia."—So it is rendered by one of our Saxon kings. The very trees will bring their fruit in due season, and the sea will give her fish, and the earth shall give her increase, when kings take care of justice and religion. By religion princes increase their empire. So Cicero [f] affirms of the Romans, "Non calliditate ac robore, sed pietate ac religione omnes gentes nationesque superavisse;" "They overcame all nations, not by force or craft, but by piety and religion:" and again: "Eorum imperiis remp. amplificatam qui religionibus paruissent." To which purpose is that of Valerius Maximus [g], "Non dubitaverunt sacris imperia servire: ita se humanarum rerum futura regimen existimantia, si divinæ bene atque constanter fuissent famulata;" "The greatest empires made no scruple of ministering to religion, as

[d] Odyss. τ. 109. Ernesti. Glasg. ed. vol. 4. pag. 233. [e] Novel. 42.
[f] Orat. de Harus. resp. cap. 9. Priestley's Cicero, vol. 3. pag. 981. et de Nat. Deor. ii. cap. 3. Creuzer, pag. 218.
[g] Lib. 1. cap. 1. §. 9. Helfrecht, pag. 8.

believing that then they should most prosperously prevail in the governments of the world, if they well and constantly did service to the divine almighty power." Now this is not to be understood as if it meant, that if a king were a good man and personally religious, it would procure blessings for him and his people; though that be true in some proportion of events: but signifies that they should be religious kings, that is, as such take care to defend, to promote, to conduct, and to govern, it to advantages and for the honour of God. And this observation is made by St. Austin, in his epistle to Bonifacius: "How do kings serve the Lord in fear, but by forbidding, and, by a religious severity, punishing those things, which are done against the Lord's commandments? For otherwise does he serve him as a man, otherwise as a king. As a man, he serves him by living faithfully: but as a king, he serves him by establishing laws, commanding righteousness, and forbidding the contrary. So did Hezekiah serve God by destroying the groves and the idol temples, and all those things which were built against the commands of God. In the like manner King Josiah did serve God: and the King of Nineveh served him by compelling all the city to serve the Lord. Thus King Darius served God by delivering the idol to Daniel to be broken, and casting his enemies into the lions' den: and Nebuchadnezzar served him by forbidding by a terrible law all his subjects to blaspheme. For in this, kings serve the Lord as kings, when they do those things for his service, which they cannot do but as kings. Now if religion be the great interest, the preserver, the enlarger, of kingdoms, it ought to be governed by the hands of these whose office it is to enlarge or to preserve them. For if the instrument be conducted by other hands, the event shall depend upon them, and then they, not kings, shall be answerable for the felicity or infelicity of their nations. And it was rarely well said of Plutarch, that "a city might be as well built in the air, without earth to stand upon, ἢ πολιτεία, τῆς περὶ θεῶν δόξης ἀναιρεθείσης, παντάπασι σύστασιν λαβεῖν, ἢ λαβοῦσα τηρῆσαι, as a republic can either be constituted or preserved without the support of religion." That supreme power, therefore, that hath no government of religion, is defective in a necessary part of its life and constitution.

9. (3.) The supremacy and conduct of religion are neces-

sary to the supreme power, because, without it, he cannot, in many cases, govern his people. For besides that religion is the greatest band of laws, and conscience is the greatest endearment of obedience[h], and a security for princes in closets and retirements, and his best guard against treasons; it is also that by which the common people can be carried to any great or good or evil design. And therefore Livy[i] observes of Numa, that to establish his government he first settled religion, as supposing that nothing is more powerful to lead the people gently, or to drive them furiously, than to imprint in them the fear of God, or to scare them with religion. And therefore the prince cannot rule without it: he is but the shadow of a king and the servant of his priests; and if they rule religion, they may also rule him. And that for two great causes.

10. (1.) Because the propositions and opinions of religion have and are directly intended to have great influence upon the whole life and all the actions of mankind. For how if the ministers of religion preach the Stoical fate, and that all things that come to pass, are unalterably predetermined, who need to care how he serves God, or how he serves his prince? Suetonius[k] says of Tiberius, that he was "circa Deos et religiones negligentior, quippe persuasionis plenus cuncta fato agi," "careless of religion, because he was fully persuaded that all things came by destiny."—To what purpose are laws or punishments, rewards and dignities, prisons and axes, rods and lictors, when it is injustice to punish a criminal for being unavoidably miserable? and then all government is at an end, when there can be no virtue nor vice, no justice nor injustice: for what is alike necessary, is equally just. But upon some such account as this Plato said, that they are not to be suffered in a commonwealth, who said that God is the author of evil. And what are likely to be the effects of that persuasion, which is a great ingredient

[h] Solo sacramento inclyti principes tuti sunt, Symmach. lib. 10. ep. 54. Maximum, dicente Catone, majoribus nostris telum, ex quo plures pace susceptæquam bello gentes fuere devictæ, quo solo continetur omnis societas, et dissoluto dissolvitur. Appius, lib. 6. in fin.

[i] Omnium primum, rem ad multitudinem imperitam, et illis seculis rudem, efficacissimam, Deorum metum injiciendum ratus est. Livy, 1. cap. 19. Ruperti. vol. 1. pag. 31.—Primum enim malitiæ vinculum est religio, et signorum amor, et deserendi nefas. Senec.

[k] Cap. 69. B. Crusius. pag. 471.

in the religion of some men, that "dominion is founded in grace;"—that evil princes may be deposed;—that heretics may be excommunicated, and their subjects absolved from the oath of their allegiance;—that faith is not to be kept with heretics;—that it is lawful to tell a lie before a magistrate, provided we think up the truth;—that kings are but executioners of the decrees of the presbytery:—that all things ought to be in common?—By such propositions as these it is easy to overthrow the state of any commonwealth; and how shall the prince help himself, if he have not power to forbid these and the like dangerous doctrines? A commonwealth, framed well by laws and a wise administration, can, by any one of these, be framed anew and overturned. It is therefore necessary, that the prince hold one end of his staff, lest himself be smitten on the head.

11. (2.) The other great cause is this, because religion hath great influence upon persons as well as actions; and if a false religion be set on foot, a religion that does not come from God, a religion that only pretends God, but fears him not, they that conduct it, can lead on the people to the most desperate villanies and machinations. We read in the life[l] of Henry III. of England, that when he had promised any thing to his nobility that he had no mind to perform, he would presently send to the pope for a bull of dispensation, and supposed himself acquitted: and who could suffer such a religion, that destroyed the being of contracts and societies, or bear the evils consequent to such a religion? And of the same nature, but something worse in the instance, is that which Arnaldus Ferronius[m] tells of, that the Roman lawyers answered to Ferdinandus Davalus, that, at the command of the pope, he might take up arms against the emperor Charles V. his prince, without any guilt of treason. And it was yet very much worse which was done and said by the Pope John XXII.[n] against the emperor Lewis IV. "Quod si nobis obtemperare detrectaverit, patriarchis, episcopis, cunctis sacerdotibus, principibus, civitatibus imperamus ut eundem deserant, ac nobis parere cogant;" "Patriarchs and princes, bishops and priests, were not only allowed, but commanded to forsake their emperor, and to compel him to obey the

[l] Matth. Westmonast. in Hen. III. [m] Lib. 8. Rerum Gallicar.
[n] Aventin. lib. 7. Annal.

bishop of Rome."—By these and much more it appears, the evil ministers of a false religion have great powers of doing what they please:

> Nam faciunt animos humiles formidine Divûm,
> Depressosque premunt ad terram:

They make the people absolute slaves, and lift them up again with boldness to do mischief. Εὐάλωτον εἰς δεισιδαιμονίαν τὸ βαρβαρικὸν, said Plutarch[o]; "The rude people are easy and apt to superstition:" and when they are in, they are ready for any violence. "Superstitione qui est imbutus, quietus esse nunquam potest," said Cicero[p]: "They cannot be quiet when they have got a wild proposition by the end." And this is too much verified by the histories of almost all nations: for there is none but hath smarted deeply by the factions and hypocrisies of religion. The priests of Jupiter[q] in the island of Meroe did often send the people to kill their kings. Eunus[r] a Roman slave, armed sixty thousand men upon pretence of a religious ecstasy and inspiration. Maricus in France did the like: so did an Egyptian in the time of Claudius the emperor, mentioned by Josephus, who led after him thirty thousand men against the Romans. The two false Christs[s], the one in the time of Vespasian, the other under Adrian, prevailed to the extreme ruin of their miserable countrymen. Leo and the Turkish Annals tell us strange events and overthrows of government, brought to pass by the arts of religion in the hands of Elmahel and Chemin Mennal in Africa: the first taking the kingdom of Morocco from Abraham their king, together with his life; the other forcing the king of Fez to yield unto him the kingdom of Temesna. In Asia Shacoculis, of the Persian sect, by his religion armed great numbers of men, and, in three great battles, overthrew the Turkish power, and put to hazard all their empire.

12. They that knew none of these stories, did know others like them, and at least knew the force of religion to effect what changes pleased them, who had the conduct of it; and therefore all wise princes, ancient and modern, took care to prevent the evil by such remedies and arts of govern-

[o] In Sertorio. [p] De Finib. i. cap. 18. Davis et Rath. pag. 63.
[q] Diod. Sicul. lib. 6. cap. 10.
[r] Florus, lib. iii. 19. 4. Duker. pag. 591.
[s] Lib. 2. de Bello Judaic. cap. 12.

ment as were in their hands. Three remedies were found out; two by men, and one by God.

13. (1.) The ancient governments of the world kept themselves and their people to the religion of their nation, that which did comply with their government, that which, they were sure, would cause no disturbance, as being that which was a part of the government, was bred up with it, and was her younger sister; but of foreign rights and strange and new religions they were infinitely impatient: by the prohibition and exclusion of which by their civil laws, as the supreme power secured the interest and peace of the republic, so it gave demonstration, that the civil power was supreme also in the religion. Upon this account we find that Aristotle and Anaxagoras were accused; Socrates and Protagoras were condemned, for holding opinions and teaching contrary to the religion of their country; and it was usual with the Athenians so to proceed: so Josephus[t] writes of them; ὥστε καὶ τοὺς ῥῆμα μόνον παρὰ τοὺς ἐκείνων νόμους φθεγξαμένους περὶ θεῶν ἀπαραιτήτως κολάζειν, "they did severely punish any man, that spake but a word against the religion established by law."—The Scythians also put Anacharsis to death, for celebrating the feast of Bacchus by the Grecian rites—for these nations accounted their country-gods to be entertained and endeared by their country-religion, and that they were displeased with any new ceremonies. But this thing was most remarkable in the state of Rome. For this was one of the charges which they gave to the ædiles[u], "Ne qui neu quo nisi Romani dii, alio more quam patrio, colerentur." And Marcus Æmilius[x] recited a decree to this purpose; "Ne quis in publico sacrove loco novo aut externo ritu sacrificaret." And this they made a solemn business of, saith Livy: "Quoties hoc patrum avorumque ætate negotium est magistratibus datum, ut sacra externa fieri vetarent;" "In the days of our ancestors they often made laws forbidding any stranger-rites;" but commanded that only their own country-gods should be worshipped, and that after their country manner." For this was enjoined in the laws of the Twelve Tables[y]; "Separatim nemo habessit Deos:" "No man must have a religion of his own," but that which is appointed

[t] Lib. 2. contr. Apion. [u] Livy, iv. 30. Ruperti, vol. 1. pag. 305.
[x] Lib. xxxix. 16. Ruperti, vol. 3. pag. 531.
[y] Cic. de Leg. ii. 8. Davis et Rath. pag. 121.

by laws. And upon this stock Claudius banished the Jews from Rome, and quite extinguished the superstition of the Druids, which Augustus Cæsar had so often prohibited. But most full to this purpose is the narrative which Dio makes of the counsel, which Mecænas gave to young Octavian: Τὸ μὲν Θεῖον πάντη πάντως αὐτός τε σέβου κατὰ τὰ πάτρια, καὶ τοὺς ἄλλους τιμᾶν ἀνάγκαζε· τοὺς δὲ ξενίζοντάς τι περὶ αὐτὸ μίσει καὶ κόλαζε, ὅτι καινά τινα δαιμόνια οἱ τοιοῦτοι ἀντεισφέροντες πολλοὺς ἀναπείθουσιν ἀλλοτριονομεῖν· κἀκ τούτου καὶ συνωμοσίαι καὶ συστάσεις ἑταιρείαι τε γίγνονται, "Worship God always and every where according to your country-customs, and compel others so to do: but hate and punish the bringers in of strange religions; because they who bring in new deities and forms of worship, they persuade men to receive other laws, and make leagues, covenants, factions, and confederacies.

14. And therefore, to prevent innovations in religion, the Romans often inquired after those who had books of strange religions, and when they found any, they burned them; as we find in Livy[y] and Suetonius[z]. They would not suffer the rites of religion to be publicly disputed: and Augustus would not have the causes of the rites of Ceres heard in open court. And when Ptolemy of Egypt was pressed to hear the controversy between the Jews and the Samaritans concerning the antiquity of their religion, he would not admit any such dispute, till the advocates would undertake their cause to be just upon the pain of death, so that they who were overcome in the cause, should die for it; and that they should use no arguments, but those which were taken from the received laws of their country, the law of Moses: they did so, and the advocates of the Samaritan party, being overcome, were put to death[a]. For they knew that to introduce a new religion with fierceness and zeal would cause disturbances and commotions in the commonwealth; and none are so sharp, so dangerous, and intestine, as those, which are stirred by religion. 'Pro aris et focis' is the greatest of all contentions; for their country-religion and their country-dwellings, 'for their altars and their hearths,' even old women and children will carry clubs and scalding water. This caution therefore was also observed by Christian princes. Justinian[b] gave in

[y] Lib. 40. cap. 39.
[z] In Augusto, cap. 31.
[a] Joseph. lib. 13. Antiq. Judic. cap. 6.
[b] Novel. 103. cap. 2.

charge to the proconsul of Palestine to prevent all popular tumults, which, from many causes, use to disturb the province, "tum vero maxime ex diversitate religionum: quandoquidem ut multos illic tumultus existere cernimus, neque leves horum eventus;" "but especially those that proceed from diversities of religion; for this begets many tumults, and these usually sit very heavy upon the commonwealth:" the changes of religion being most commonly the most desperate paroxysms, that can happen in a sickly state. Which Leontinus bishop of Antioch expressed prettily by an emblem; for stroking of his old white head, he said, "When this snow is dissolved, a great deal of dirty weather would follow:" meaning, when the old religion should be questioned and discountenanced, the new religions would bring nothing but trouble and unquietness.

15. This course of forbidding new religions is certainly very prudent, and infinitely just and pious. Not that it is lawful for a prince to persecute the religion of any other nation, or the private opinion of any one within his own; but that he suffer none to be superinduced to his own to the danger of peace and public tranquillity. The persuasions of religion are not to be compelled: but the disturbances by religion are to be restrained by the laws. And if any change upon just reason is to be made, let it be made by authority of the supreme: "ut respublica salva sit;" that he may take care, that peace and blessings may not go away to give place to a new problem. When it is in the prince's hands, he can make it to comply with the public laws; which he then does best of all, when he makes it to become a law itself. But against the law no man is to be permitted to bring in new religions, excepting him only who can change the law, and secure the peace. Beyond this no compulsion is to be used in religion: Προτρεπτικὴ γὰρ ἡ πᾶσα θεοσέβεια ζωῆς τῆς νῦν καὶ τῆς μελλούσης ὄρεξιν ἐγγεννῶσα τῷ συγγενεῖ λογισμῷ, said St. Clemens Alexandrinus; "All religion must enter by exhortation; for it is intended to beget a desire in our mind that is of the same cognation, a desire of the life that now is, and of that which is to come." The same with that of Theodoricus[c], king of the Romans: "Religionem imperare non possumus, quia nemo cogitur ut credat invitus:" and

[b] Lib. 1. Pædag. cap. 1. [c] Apud Cassiodorum, lib. 2.

Theobaldus[d] writing to the emperor Justinian, argued well: "Since God himself is pleased to permit many religions, we dare not by force impose any one; for we remember to have read, that we must sacrifice to God with a willing mind, not by the command of any one that compels." And therefore the old Romans, the Greeks, the Scythians, although they would admit no new religion amongst their own people, would permit to every nation to retain their own; by this practice of theirs, declaring, that religion is not to be forced abroad, nor changed at home, but that it was by the supreme power of the republic to be conducted so as to comply with the interest of the commonwealth. This was the first remedy against the evils of religious pretences; which, by being conducted in the hands of the civil power, shows that to be supreme even in the questions of religion.

16. (2.) The other, which was found out by men, is that they did take the priesthood into the hands of the supreme civil power; and then they were sure that all was safe. The Egyptians[e] chose their priests out of their schools of learning, and their kings out of their colleges of priests. The kings of Aricia[f], a place not far from Alba, were also priests of Diana: the same is reported of the priests of Bellona, that they were the kings of Cappadocia, saith Hirtius[g]; and the priests of Pantheon[h] were supreme judges of all causes, and conductors of all their wars. The kings of Persia were always consecrated to be princes of the ceremonies, so was the king of Lacedemon: and at this day the kings of Malabar are also brahmins or priests: and it was a law amongst the Romans, "Sacrorum omnium potestas sub regibus esto," "The power of religion, and all holy things, was to be under their kings:" and Virgil[i] ever brings in his prince Æneas as president of the sacrificial rites; and of something to the same purpose Ovid[k] makes mention,

Utque ea nunc certa est; ita rex placare sacrorum
Numina lanigeræ conjuge debet ovis.

"The king, with the sacrifice of a ram, was to appease the gods."—So did Romulus and Numa; "Romulus auspiciis,

[d] Variar. ep. 27. Lib. 10. ep. 26.
[e] Marsil. Ficin. in Præfat. lib. Trismeg.
[f] Strabo, lib. 5.
[g] In Bell. Alexandr. c. 36. Oberlin. p. 636.
[h] Diod. Sicul. lib. 6. cap. 10.
[i] Lib. 10. Æneid.
[k] Fastor. i. 334. Gierig, pag. 28.

Numa sacris constitutis, fundamenta jecerunt Romanæ civitatis," said Cicero[1]: "They built Rome, and religion was the foundation of the city." And the same custom descended with the succeeding kings, as Dionysius Halicarnasseus reports: Πρῶτον μὲν ἱερῶν καὶ θυσιῶν ἡγεμονίαν εἶχεν, καὶ πάντα δι' ἐκείνου πράττεσθαι τὰ πρὸς θεοὺς ὁσίους, "They had the government of all sacrifices and holy rites; and whatsoever was to be done to the holy gods, was done by them."

17. When afterward they separated the priesthood from the civil power, they appointed a sacrificing king to take care of the rites, but they kept him from all intermeddling with civil affairs; he might bear no office in the commonwealth, nor have any employment in the army, nor make an oration to the people, nor meddle with public affairs: and yet besides this caution, the supreme magistrate was pontifex maximus; and although he did not usually handle the rites, yet when he pleased, he made laws concerning the religion, and punished the augurs, and the vestal virgins, and was superior to the 'rex sacrorum,' and the whole college of priests[m].

18. But when the commonwealth was changed into monarchy, Augustus annexed the great pontificate to the imperial dignity, and it descended even to the Christian emperors, who because it was an honorary title, and was nothing but a power of disposing religion, they at first refused it not: but upon this account it was that Tacitus[n] said of the Roman emperor, "Nunc Deûm munere summum pontificem summum hominum esse," "The greatest priest is also the greatest prince." Now this device of theirs would indeed do their business, but it was more than was needful. For though it were certain that religion, in the hands of the supreme magistrate, should never disturb the public: yet it might be as sure, if the ministry were in other hands, and the empire and conduct of it in their own. And that was God's way.

19. (3.) For God hath intrusted kings with the care of the church, with the custody of both the tables of his law, with the defence of all the persons of his empire; and their charge is to preserve their people in all godliness and honesty, in peace and in tranquillity; and how this can be done

[1] De Nat. D. lib. 3. cap. 2. Creuzer, pag. 497.
[m] Festus Pompeius, lib. 17.—Dionys. Halic. lib. 4.—A. Gell. lib. 10. cap. 15.—Liv. lib. 2.
[n] Annal. lib. 3.

without the supreme care and government of religion, is not easy to be understood.

4. But this appears, in that kings,—that is, the supreme power of every nation,—are vicegerents of Christ[o], who is head of the church, and heir of all things; he ruleth with a rod of iron; he is prince of the kings of the earth; the only potentate, King of kings and Lord of lords; to him is given all power in heaven and earth, and by him kings reign. So St. Athanasius[p]: *Λαμβάνων οὖν ὁ Χριστὸς τὸν θρόνον μετέστησεν αὐτὸν, καὶ ἔδωκε τοῖς ἁγίοις Χριστιανῶν βασιλεῦσιν ἐπάναστρέψαι τούτους ἐπὶ τὸν οἶκον Ἰακώβ,* "Christ, taking his throne, hath translated it, and given it holy Christian kings to return them back to the house of Jacob." The fathers of the council of Ariminum, writing to Constantius the Arian emperor, say to him, that by Christ he had his empire given him; *Δι' οὗ [Χριστοῦ] σοι καὶ τὸ βασιλεύειν οὕτως ὑπῆξεν ὡς καὶ τῆς καθ' ἡμᾶς οἰκουμένης κρατεῖν,* "By him thou art appointed to reign over all the world." And upon this account, Liberius gave him this advice; *Μὴ μάχου πρὸς τὸν δεδωκότα σοι τὴν ἀρχὴν ταύτην· μὴ ἀντ' εὐχαριστίας ἀσεβήσῃς εἰς αὐτόν,* "Fight not against him, who hath given thee this empire; and instead of thanksgivings, pay him not with dishonour." For the prince, being an Arian and denying the divinity of Christ, did dishonour the Prince of the kings of the earth, who had deserved better at his hands. The consequence of this consideration is this, If Christ as the supreme king does rule his church, and in this kingdom hath deputed the kings of the earth, and his vicars they are, then they are immediately under him in the government of Christ's church. For Christ, in heaven, is both king and priest. As king, he reigns over all the world for the glory of his Father and the good of his elect; as priest, he intercedes for all mankind, and particularly 'for them, who shall be heirs of salvation.' Now, in both these relations, he hath on earth deputed certain persons to administer and to imitate his kingdom and priesthood respectively. For he governs all the world, but he does it by his angel-ministers, and by kings his deputies. He officiates in his priesthood himself, and in this he hath no deputy; for he intercedes for us continually: but he hath

[o] Heb. i. 2. Rev. i. 5. xi. 17. xvii. 14. xix. 16. 1 Tim. vi. 15. Matt. xxviii. 18.
[p] Serm. de B. Virg.

appointed an order of holy and consecrated persons to imitate the offices of this priesthood, to minister the blessings of it to the people, to represent the death of the cross, to preach pardon of sins to the penitent, to reconcile lapsed and returning sinners, that is, to minister to the people all the blessings, which he, by the office of priesthood, procures in heaven for us. Now it is certain, that he hath made deputies of his kingdom; for all power being given to him as the great king, there can be no government upon earth but what he appoints. 'The government is upon his shoulders,' and all the earth is his inheritance, and therefore from him all just government is derived. Now it being manifest that he is the fountain of all kingly power, it is also as manifest that all this power is delegated to the kings of the earth; for "by me kings reign," saith the Wisdom of God; and it is one of his most glorious appellatives, that he is "Prince of the kings of the earth;" and it is as certain that none of this kingly power was given to the ministers of religion, but expressly denied to them. "The kings of nations exercise dominion;" that is their province: "but it shall not be so amongst you: but he that is greatest amongst you, let him be your minister." That is your state, you are ministers of the kingdom to other purposes, in other manners; you do your work by serving, by humility, by charity, by labours and compliance, by gentle treatments and the gentlest exhortations; nothing of a king is to be in you, but the care: ὅτι συνάπτειν τὴν βασιλείαν τῇ ἱεροσύνῃ συγκλώθειν ἐστὶ τὰ ἀσύγκλωστα, "for to join the kingdom and the priesthood evangelical is to join in one band things of the most differing nature[q];" for the name of kings hath power and constraint, rods and axes; the name of priests and apostles hath in it nothing but gentle manners and holy ministries. Kings can compel; the ministers of religion must entreat. They can kill; but, at the most, these can but rebuke sharply. These can cut off from spiritual communion, and deny to give them mysteries, that will hurt the wicked and the indisposed; but they can cut them off from life itself. Kings justly seek honours, wealth, and dignity, and it is allowed them by laws and by necessity, and by their reason: but priests must "not seek their own,

[q] Synes.

but only the things of Jesus Christ." They must indeed be maintained; the ox cannot labour, if his mouth be muzzled: but though this be his maintenance, it must be no part of his reward. Our blessed Saviour's word is rendered by St. Matthew[r] by *κατακυριεύειν*, "The kings of the people do rule imperiously." This very word is also used by St. Peter, and forbidden to the elders of the church; and to it is opposed *ποιμαίνειν*, "to feed the flock like shepherds." The manner of *κυριεύειν* used by St. Paul, or *κατακυριεύειν* used by St. Matthew and St. Peter, "the exercising dominion is compulsion," and great riches: this is also forbidden to the clergy, they must not do any thing *ἀναγκαστῶς*, nor *αἰσχροκερδῶς*, not "for profit to themselves," not "with violence or imposing necessity upon others." The ministers of religion are very considerable in this kingdom of Christ, to promote and to advance it by holy preachings and holy ministrations: but it is true, which was solemnly declared in Babylon to the prince of the captives, "officium ipsi non potestatem injungi, et ab eo die incipiendum ipsi servire omnibus;" their eminency is nothing but an eminency of service, it is the greatest ministry in the kingdom, but hath in it the least of empire. But of this I shall have occasion to give a fuller account. For the present, that which the present argument intends to persuade is, that the ministers of religion are not only officers under Christ's priesthood, but subjects in his kingdom, which is administered by angels and Christian princes in all the imperial, in the defensive and coactive, parts and powers of it. The Christian king or supreme magistrate can do every thing, *πλὴν μόνον τοῦ ἱερουργεῖν*, as Comatenus said, "only except the sacred ministries:" which is the same which was said by the famous Bishop of Corduba, Hosius, in Athanasius; "Neque igitur fas est nobis in terris imperium tenere, neque tu sacrorum et thymiamatum habes potestatem, imperator, hoc est jus adolendi." The good bishop was speaking of the fact of Ozias, who though he had power over the priests, yet had nothing to do to meddle with the rights of priesthood: "It is not lawful for us to meddle with empire or the rights of government; nor for thee, O emperor, with the rites of incense." The sum is this, If Christ by his kingly power governs his church, and Chris-

[r] Matt. xx. 25.

tian kings are his deputies, then they also are the supreme, under Christ, of the whole government of the church.

20. (5.) So that now I shall not need to make use of the precedents of the Old Testament, nor recite how David ordered the courses of the Levites, the use of the bow in the choir, the solemnities of public service, nor how Solomon put Abiathar from the high-priesthood, nor how Jehu, nor Hezekiah, nor Josiah, reformed religion, pulled down idols, burnt the groves, destroyed the worship of Baal, reduced the religion of the God of Israel. This indeed is an excellent argument, because it was a time, in which God gave his priests more secular eminency and external advantages than ever he did since, and also because Christ changed nothing in the kingdoms of the earth; he left them as he found them, only he intended to make them ministers and portions of his kingdom; and that they should live privately, and govern publicly by his measures, that is, by the justice and mercy evangelical. But this argument I was the more willing to touch upon, because the church of England much relies upon it in this question, and excommunicates those, who deny the supreme civil power to have the same authority in causes ecclesiastical, which the pious kings of the Hebrews had over the synagogue: but I find the ancient doctors of the church pressing much upon the former 'medium,'—That Christ hath specially intrusted his church to Christian princes. For,

21. (6.) Christ shall call Christian kings to account for souls. "Cognoscant principes seculi Deo se debere rationem reddere propter ecclesiam, quam à Christo tuendam suscipiunt. Nam sive augeatur pax et disciplina ecclesiæ per fideles principes, sive solvatur, ille ab eis rationem exigit, qui eorum potestati suam ecclesiam credidit," said Isidore Hispalensis[s]: "Let the princes of the world know, that they must give an account to God for the church, which they have received from Christ into their protection. For whether the peace and discipline of the church be increased by faithful princes, or whether it be dissolved, he who hath intrusted his church to their power, will exact an account from them." —And therefore Pope Leo to Leo the emperor gave this advertisement[t]; "Debes incunctanter advertere regiam potes-

[s] In Sent. cap. 51. [t] Epist. 75.

tatem tibi non solum ad mundi regimen, sed maximè ad ecclesiæ præsidium esse collatam;" "You must diligently remember that the supreme power is given to you not only for the government of the world, but especially for the safety and defence of the church."—Now this defence not being only the defence of guards but of laws,—not only of persons, but especially of religion,—must needs infer that kings have something more to do in the church than the court of guards hath: he defends his subjects in the service of God; he defends and promotes this service; he is not to defend them if they disserve Christ, but to punish them, and of this he is judge and exactor: and therefore this defence declares his right and empire. "Ex quo imperatores facti sunt Christiani, res ecclesiæ ab ipsis dependisse:" so Socrates expresses this question: "Ever since the emperors became Christian, the affairs of the church have depended upon them."—They did so before, but they did not look after them: they had the power from Christ, but they wanted his grace: they owed duty to him, but they paid it not, because they had no love for him. And therefore Christ took what care he pleased, and supported it in persecution, and made it grow in despite of opposition: and when he had done this long enough to prove, that the religion came from God, that it lost nothing by persecution, but that his servants loved him and died for him,—then he called the princes into the house of Jacob, and taught them how to administer his power to the purposes of his own designment. Hence come those expressions used often by antiquity concerning kings, calling them 'vicarios Dei,' 'veræ religionis rectores,' εὐσεβείας καὶ πίστεως ἀρχηγοὺς, 'the deputies of God,' 'governors of true religion,' 'the captains and conductors of faith and godliness;' "ad quorum curam, de qua Deo rationem reddituri erant, res illa maximè pertinebat[u]," "for to their care religion and the church did belong, and concerning that care they were to give an account to God."

22. Now if we descend to a consideration of the particular charges and offices of kings in relation to the church, it will not only be a mighty verification of the rule, but also will minister to the determination of many cases of conscience concerning kings, and concerning the whole order

[u] S. August. Ep. 166.

ecclesiastical. This I shall do in the following rules, which are but appendices to this.

RULE V.

Kings have a legislative Power in the Affairs of Religion and the Church.

1. THIS is expressly taught by St. Austin[x]: "In hoc reges, sicut eis divinitus præcipitur, Deo serviunt in quantum reges sunt, si in suo regno bona jubeant, mala prohibeant, non solùm quæ pertinent ad humanam societatem, verùm etiam quæ pertinent ad divinam religionem;" "In this, kings in that capacity, serve God according to the divine commandment, if in their respective kingdoms they command good things and forbid evil, not only in relation to human society, but in order to religion."

2. The least part of this power is to permit the free exercise of it, and to remove all impediments, and to give it advantages of free assemblies, and competent maintenances, and just rewards, and public encouragements. So Cyrus and Darius gave leave and guards and rescripts, warranty and provisions and command, to the Jews of the captivity, to build the temple. So Constantine and Licinius did to the Christians, to practise their religion. Thus Hezekiah, and some other pious kings of the Hebrews, took away the offences of the people, the brazen serpent, the groves and images, the altar of Bethel, and the idolatrous services. And of these things there is little question; for the Christian princes, by their authority, shut up the temples of the heathen gods.

3. That which is yet more considerable is, that by punishments they compel their subjects to serve God and keep his commandments. That which was observed of the primitive Christians, that they tied themselves by oaths and covenants to serve God, to do justice, not to commit adultery, to hurt no man by word or deed, to do good to every man they could, to assemble together to worship Christ,—that Christian princes are to secure by laws, that what men will not do by choice, they may, whether they will or no; and

[x] Contr. Crescon, lib. 3. 51.

this is not only in things relating to public peace and the interest of the republic, but in the immediate matters of religion: such as are, laws against swearing, against blasphemy, against drunkenness, and fornication, and the like, in which the interest of souls is concerned, but not the interest of public peace. "Hoc jubent imperatores, quod jubet Christus;" and it is a great service to Christ, that the fear of men be superadded; because to wicked persons and such for whom the severity of laws was made, it often prevails more than the fear of God.

4. But that which is more than all this is, that besides those things, in which God hath declared his will, the things of the church, which are directly under no commandment of God, are under the supreme power of Christian princes. I need no other testimony for this but the laws themselves which they made, and to which bishops and priests were obedient, and professed, that they ought to be so. And this we find in the instance of divers popes, who, in their epistles, gave command to their clergy to observe such laws, which themselves had received from imperial edicts. For there are divers laws, which are, by Gratian, thrust into his collection, which were the laws of Christian princes. The canon 'Judicantem[y],' expressing the office of a judge in the cognizance of causes, attributed by Gratian to Pope Eleutherius, was a law made by the emperor Constantine[z]; and so was that[a] which was attributed to Pope Fabian against accusers; it is in the Theodosian code, and was made by the same prince. The canons which go under the names of Sixtus[b] and Adrian[c] and Fabian[d] before cited, of the same title, were made by Gratian the son of Valentinian the elder: who also made the rescripts for restitution of church-goods taken from bishops, when they were forced from their sees, attributed to Pope Caius and Pope John. Theodosius the emperor made the canon 'Qui Ratione[e]' for order in accusations, which yet is attributed to Pope Damasus, but is in the Theodosian code: for thus the popes easily became lawgivers, when they adopted into the canon the laws of their princes, which by their authority prevailed beyond the memory of

[y] 13. q. 5.
[a] Can. si quis iratus.
[c] 2. q. 3. c. 3.
[e] 3. q. 9.
[z] L. 1. C. de Judic. C. Theodos.
[b] 3. q. 6. c. 16. 17. et. 2. q. 8. c. 4.
[d] 3. q. 6. c. 1.

their first makers. The canon 'Consanguineos[f],' for separation of marriage within the prohibited degrees, was not the pope's, but made by Theodosius, as it is thought, at the instance of St. Ambrose: and Valentinian made the canon 'Privilegia[g],' for confirmation of the privileges of the church, which goes under the name of Anacletus. I could reckon divers others; for indeed the volume of the 'Decrees' is full of such constitutions, which the Christian emperors made; but they were either assumed by the popes or imputed to them. But that the popes, as ecclesiastics, had no authority to make laws of ecclesiastical affairs, but that the emperors had,—was sufficiently acknowledged by Pope Honorius[h]: "Imperator Justinianus decrevit, ut canones patrum vim legum habere oporteat;" "That the canons of the fathers became a law in the church, was by the constitution of the emperor Justinian."—For that was all the end both of the labours of war and the counsels of peace, "ut verum Dei cultum orbis nostri plebs devota custodiat," said Theodosius and Honorius in their letters to Marcellinus: "that our people may devoutly follow the true worship of God."

5. Upon this account we said that Constantine, Anastasius, and Justinian, made laws concerning the expense and rites of sepulture. Gratian, Valentinian, and Theodosius, forbade dead corpses to be interred within the memorials of martyrs and apostles. Honorius appointed the number of deans in the metropolis, and the immunities of every church. Leo and Anthemius forbade alienation of church-lands. But what should I instance in particulars? they that know not this, are wholly strangers to the civil law,—particularly the first book of the code, the Authentics, the Capitulars of the French princes, the laws of the Goths and Vandals, and indeed of all the Christian princes of the world. But the first titles of the code, 'De Summa Trinitate et Fide Catholica,' 'De Sacrosanctis Ecclesiis,' 'De Episcopis et Clericis,' 'De Episcopali Audientia,' 'De Hæreticis,' 'Manichæis,' 'Samaritis,' 'De Apostatis,' and divers other, are witnesses beyond exception. Now in this there is no exception of matter. For whatsoever is under government, is also under the laws of princes: Μηδὲν ἄβατόν ἐστιν εἰς ζήτησιν τῇ βασιλείᾳ, said Jus-

[f] 35. q. 6. [g] 25. q. 2.
[h] Cap. 1. Ext. de Juram. Calum.

tinian[i]. Nothing comes amiss to the prince, every thing is under the royal cognizance. Constantine[k] made laws concerning festivals, and appointed what labours might, and what might not, be done upon the Lord's day; and so did Leo[l] the emperor. Valentinian, the elder, made a law that no clergyman should receive an inheritance by the will or gift of widows and orphans, unless they were of the kindred. St. Ambrose[m] complains heavily of the law, and so does St. Jerome[n], but confesses it was just, and procured by the avarice of some clergymen, who under cover of religion made a prey of the widows. But this decree was sent to Pope Damasus, and publicly read in the churches of Rome. And Honorius the emperor made a law concerning the election of the pope:—which two last instances I reckon to be very great, because, at Rome, now-a-days they are intolerable.

6. But if all these laws were made by emperors only by force, against right and justice, and beyond their just power, then we are never the nearer for this argument: and that it is so, Baronius[o] is bold to affirm, who upon this title blames Justinian for meddling with the affairs of the church: for "Quid imperatori cum ecclesia?" "What hath the emperor to do with the church?"—we know who said it. And therefore a synod at Rome under Symmachus abrogated a law, made by Basilius a deputy of King Odoacer, in an assembly of ecclesiastical persons, in the vacancy of the see apostolic, upon the death of Simplicius. Now the law was a good law, it forbade the alienation of the goods of the church; yet because it was a law made by a laic, they thought fit to annul it.

7. To these things I answer, that it matters not what Baronius says against Justinian: for Pope Adrian IV. who is much more to be credited, commends him, and propounds him as a great example imitable by all princes: and it was not Justinian alone, but very many other princes, both before and after Justinian: and therefore to ask 'What hath the emperor to do with the church,'—might become Donatus (whose saying it was, and whom St. Austin[q] confuted for saying so), but it becomes not any man that loves truth and order. As for the Roman synod under Symmachus, the

[i] Novel. 133. 8.
[k] Cap. de Feriis, lib. 3. et Cod. Thod. de Fer. lib. 1.
[l] Leo. VI. novel. 54.
[m] Epist. 31.
[n] Ep. 2. ad Nepotian.
[o] Tom. 7. A. D. 541.
[p] Apud Radenon. in Frider. lib. 1. cap. 15.
[q] Epist. 166.

matter was this. He would needs make himself head of a synod without the bishop (for he was lately dead), and made a law with an anathema for the sanction, and would have it pass not for the law of the prince, but for a law of the church; which because the ecclesiastics had no reason to accept for such, when it was not so, they did annul it: "Talem legem viribus carere, nec posse inter ecclesiastica ullo modo censeri," said Eulalius the bishop of Syracuse in that synod. But that this makes nothing against the prince's power of making laws, appears by the great submission, which even the bishops of Rome themselves made to the imperial laws, even when they liked them, and when they liked them not. I instanced before in Damasus causing the law of Valentinian against clergymen receiving inheritance from widows to be read in all the churches of Rome. Pope Boniface consented to the law, which Honorius the emperor made about the election of the pope, and was so far from repudiating an ecclesiastical law made by the prince, that he entreated him to make it. But that which is most material to this inquiry is, the obedience of St. Gregory the Great to Mauritius the emperor, who made a law that no soldier should turn monk without his leave[r]. This St. Gregory esteemed to be an impious law; he modestly admonished the emperor of the irreligion of it. But Maurice nevertheless commanded him to publish the law. The good bishop knew his duty, obeyed the prince, sent it up and down the empire, and gave this account of it: "Utrobique quæ debui exolvi, qui imperatori obedientiam præbui, et pro Deo quod sensi minimè tacui;" "I have done both my duties, I have declared my mind for God, and have paid my duty and obedience to the emperor:"—"Legibus tuis ipsi quoque parent religionis antistites," said Pope Gelasius[s] to Anastasius the emperor; "Even the bishops, the ministers of religion, obey thy laws." Now this is not for decency only, and upon prudent considerations, but upon necessity and by the divine authority: "cognoscentes imperium tibi superna dispositione collatum," as "knowing that the empire is given to thee by God." —And therefore the great prelates of the church, when they desired a good law for the church's advantage should be made, presently addressed themselves to the emperor,

[r] Lib. 2. Ind. 11. ep. 61. [s] Epist. 10.

as to him who alone had the legislative power. I have already instanced in Pope Boniface entreating Honorius to make a law concerning the election of the pope. Sergius also, patriarch of Constantinople, petitioned the emperor Heraclius to publish a pragmatic sanction, that no man should be admitted into the clergy but into a dead place. These things are so plain, that I may justly use the words of the fathers of the sixth council of Toledo[t], speaking of Chintillanus their king: "Nefas est in dubium deducere ejus potestatem, cui omnium gubernatio superno constat delegata judicio;" "It is impiety to call in question his power, to whom the government of all is certainly deputed by the divine judgment."—I therefore conclude this particular with the excellent words of Cardinal Cusanus[u]: "It becomes not any man to say that the most sacred emperors, who, for the good of the republic, did make many constitutions concerning the election of bishops, collation of benefices, observation of religions, did err. Nay, we have read that the pope of Rome hath entreated them, that they would publish laws concerning divine worship, and for the public good, and against sinners of the clergy. And lest, peradventure, it be said, that the strength of all these constitutions did depend upon the approbation of the authority apostolical or synodical [viz. of the pope or council], I will insist upon this: although (let me say this), I have read and collected fourscore and six chapters of ecclesiastical rules of the ancient emperors, which were to no purpose to insert here, and many others of Charles the Great and his successors, in which many dispositions or appointments are to be found concerning the pope of Rome and all patriarchs, and the conservation of bishops and others; and yet I never read, that ever any pope was asked to approve these laws; or, if his approbation did intervene, that, upon that account, the laws did bind. But it is read, that some popes of Rome have confessed, that they had those imperial laws in veneration." And this thing is so true and so publicly known, that the French ambassadors openly told it in the council of Trent, that the kings of France, by the example of Constantine, Theodosius, Valentinian, Justinian, and other Christian emperors, made many laws concerning holy things, and that these did not only not

[t] Cap. 14. [u] Lib. 2. Cath. Concord. cap. 40.

displease the Roman bishops, but they put many of them into their canons : that the chiefest authors of these laws, Charles the Great and Lewis IX., they thought worthy to be canonized and declared saints, and that the bishops of France, and the whole order ecclesiastical, have piously ruled and governed the Gallican church by the prescript of those ecclesiastical laws, which their kings had made.

RULE VI.

The supreme civil Power hath a Power of Coercion of every Person in the whole Order ecclesiastical.

1. He that says all must be subject, need not instance in particulars, and say that Titius and Sempronius, and the village-curate, and the bishop of the diocess, must be subject. But yet because of the pretences of some, the fathers of the church have found it necessary to say, that even ecclesiastics must be subject; and that they are a part of the all. So St. Chrysostom [x], explicating the words of St. Paul, saith, "But Paul gives us those reasons which command us of duty to obey the powers; showing, that these things are commanded to all, not to seculars only, but to priests and monks: which he shows in the very beginning, when he saith, 'Let *every* soul be subject to the supereminent powers;' although thou beest an apostle, or an evangelist, or a prophet. For this obedience or subjection (be sure) will not destroy thy piety." That St. Chrysostom here speaks of secular powers, is evident in the whole homily; and it appears also in the words here reported; for he says, that even an apostle must be subject, who, because he hath no superior ecclesiastical, must be subject (if at all), to the secular or supreme civil power. And this place is so understood by St. Irenæus [y], St. Basil [z], St. Ambrose upon this place, and St. Austin [a], who expressly derides those that expound the "higher powers" of St. Paul by 'ecclesiastical honours.'

2. But this thing is evident by notoriety of fact. Theo-

[x] Homil. 23. in Epist. ad Rom. [y] Lib. 1. cap. 24.
[z] In Constit. Monast. cap. 22.
[a] Lib. de Catech. Rud. c. 21. and cont. Parmen. lib. 1. c. 7.

doret[b] tells of Eusebius bishop of Samosata, that when the imperial edict of banishing him from his see, and sending him into Thrace, was brought by a messenger in the twilight, he charged him to say nothing, lest the people should tear the officer in pieces. But the bishop, according to his custom, went to evening prayer; and then with one servant, with a book and a pillow went to the water-side, took a boat, and passed over to Zeugma. The people, having soon missed their bishop, followed him, found him out, and would fain have brought him back; but he refused, and told them it was the precept of the Apostle, 'to be obedient to the higher powers:' and upon that he rested, and they returned. And the same was the submission, and the same was the reason, of St. Athanasius[c], as appears in his Apology to Constantius the Arian emperor; and the same subjection was professed by Justin Martyr to Antoninus the emperor; "Nos solum Deum adoramus, et vobis in rebus aliis læti inservimus, imperatores ac principes hominum profitentes;" "We only worship God, in other things we cheerfully serve you, as professing you to be emperors and the princes of mankind."—"Ego quidem jussioni subjectus," said St. Gregory[d] to Mauritius; "I am subject to command:"—and then it is certain, he was subject to punishment, in case he disobeyed the command. "Ad hoc potestas super omnes homines dominorum meorum pietati cœlitus data est." He had no more immunity than any man else; for from heaven a power is given to the prince over all men.—The effect of this instance and these words of Gregory is acknowledged by Espencæus[e], "Gregorius Magnus agnoscebat imperatoribus concessum est dominari sacerdotibus;" "Gregory the Great acknowledged, that to the emperors it was granted to rule over the priests."—And the same was affirmed by Pope Honorius: "Sancta ecclesia legum sæcularium non respuit famulatum, quæ æquitatis et justitiæ vestigia imitantur;" "The holy church refuses not to obey secular laws that are equal and just."

3. But I undertook to evidence the truth of this rule by matter of fact and authentic precedents. Constantine[f] re-

[b] Hist. lib. 4. cap. 15. [c] Apolog. 2. [d] Epist. ad Mauritium.
[e] Comm. in Tit. 1. de Privileg. cap. Super Specula. cap. Innotuit, de Arbitr. cap. 1. de No. oper. nunc. cap. Constitutus de in Integr. Restitut. cap. Auctoritate, de Concess. Præb. in 6.
[f] Vide Athan. de Synod. Socrat. lib. 1. cap. 25. Sozom. lib. 2. cap. 28.

ceived the libels which the bishops at Nice had prepared one against another. He told them indeed, that it was more fit for them to judge him, than he them,—and therefore he burned the papers; but this signified nothing, but that it was a shame to them, whose office it was to reprove all sinners, to accuse one another of crimes before their prince. But that this was nothing but a modest redargution of them appears, because he did upon their condemnation of Arius banish him, and recalled him without their absolution of him. He banished Eusebius [g] and Theognis, whom the council had deposed, and took cognizance of the cause between Athanasius [h] and the bishops his accusers; that it might appear what he had said to the prelates at Nice was but a modest reproof or a civil compliment, for it was 'protestatio contra factum.' If he said that, he said one thing and did another. His son Constantius caused Stephen bishop of Antioch to be convened in the palace upon the law 'de vi publica,' and the 'lex Cornelia de sicariis.' His lay-judges heard him, found him guilty, and commanded the bishops to depose him from his bishoprick and expel him out of the church. His brother Constans [i] heard Narcissus of Cilicia, Marcus the Syrian, Theodore of Thrace, and Maris of Chalcedon against Athanasius and Paul bishop of Constantinople. Valentinian [k] the emperor set a fine upon the head of Chronopius the bishop, and inflicted divers punishments upon the bishops of Ursicinus, Ruffus, Ursus, and Gaudentius, for making schisms to the disturbance of the public peace. Gratian the emperor deposed Instantius, Salvianus and Priscillian from their bishopricks and banished them, and afterward recalled them. Arcadius [l] the emperor heard St. Chrysostom's cause and banished him; and Pope Innocent, who found fault, because he gave wrong judgment, yet blamed him not for usurping of a right to judge him. Theodosius the younger imprisoned Bishop Memnon and St. Cyril of Alexandria. Indeed, the prince was misinformed by John of Antioch; but when, by the great Ephesine council, he was rightly instructed, he condemned John of Antioch, and afterward released the two bishops at the great and passionate [m] petition

[g] Theodor. lib. 1. cap. 20. id. ibid. cap. 31.
[h] Athan. Apol. 2.
[i] Socra. lib. 2. cap. 14. Sozom. lib. 3. cap. 9.
[k] Lib. 2. Quorum Appel. Cod. Theod.
[l] Socrat. lib. 6. cap. 16.
[m] Vestra pia genua protensis manibus attingimus.

and importunity of the council of Ephesus. And when Ibas, bishop of Edessa, had excommunicated some priests of his diocess, they appealed to the emperor [n] and were heard. Theodoric, king of Italy, received accusations against Pope Symmachus [o], and sent Altinus a bishop to be the visitor of that see, and afterward remitted the matter to a synod. Justinius [p] the emperor gave judgment upon Dorotheus, bishop of Thessalonica, for sedition and homicide. Justinian banished Julian the bishop of Halicarnassus, Severus bishop of Antioch, Peter of Apamea, and Zoaras a priest: but he also judged the cause of Pope Sylverius, for certain treasonable letters; and recalled him from banishment, but so that he should not be restored to his see, unless he were found innocent of the accusation.

4. I could reckon very many more instances to the same purpose, but these are as good as more; especially being but particulars of that power, and just consequence of that authority, which I have proved, by the laws of God and the confessions of the church, to be inherent in the supreme power. I sum up this with the words of Balsamo [q]: "Quia statutum est nullum per alium injuriâ afficiendum, ipse patriarcha ab imperatore, qui ecclesiæ habet potestatis scientiam, judicabitur forte ut sacrilegus, vel malè de fide sentiens, vel alicujus criminis reus: hoc enim judicialiter actum vidimus diversis temporibus;" "Because it is commanded, that one should not injure another, the patriarch himself shall be judged of the emperor, who hath cognizance over the power of the church, peradventure for sacrilege, or for heresy, or for the guilt of any other crime; for we have, divers times, seen such judicial processes." And to the same purpose, the seventh canon of the first council of Matiscon subjects the clergy to the secular judge in the causes of theft, witchcraft, and murder; and the council of Toledo [r] does the like in the matter of robbery or cozenage. For either clergymen are not subjects, or they are bound by the laws of their prince. If they be not subjects, how come they free? If they be subjects, where is their privilege? or is the spiritual calling of a nature so desperate and estranged from the commonwealth,

[n] Adastas. Biblioth. in Symmacho.
[o] Epist. Hormisdæ, 56, 57.
[p] Novel. 42. et ponitur in concil. Gen. 5. Act. 1. Liberatus in Breviar. cap. 22.
[q] An can. 12. syn. Antioch.
[r] Which is cited c. filiis 16. q. 7.

that it is no part of it? or is it better than the secular? The questions are worthy inquiring after; but the decision of them will take off many prejudices from this great measure of conscience, concerning the fountain of human laws and judicatories.

5. But, upon a closer view of the particulars, it will be found that the whole matter is a mistake; a false consequence drawn from a true estimate of religion: for all men grant, that religion is the greatest excellency,—that our souls are the biggest interest,—that all our wealth is best employed, when it is spent in God's service,—that all things must yield to our duty to God: these are all very true, as every thing else is, when it is truly understood; but what then? therefore the ministers of religion are to be preferred before the ministers of policy? Well, suppose that; for it is true, that every thing is best in its own place and time. But what? therefore the ministers of religion are superior to princes, whose government and care, whose office and employment, are merely temporal? That will not follow;—nor this, therefore the ministers of religion are in all things better;—nor this, therefore they are in nothing inferior;—nor this, therefore they are not subject to civil government, and civil punishments. But these things must be considered apart.

Question I.

In what sense, the service of God is to be preferred before every thing else.

6. To this I answer, (1.) That, if the service of God be taken in a sense opposed to any other thing, which is not the service of God, there is no peradventure, but it is to be preferred before every thing; for the question is no more than this, whether we ought to serve God, or not to serve him. For if that, which is not God's service, comes in competition with that which is,—if the first be preferred, God is directly despised.

7. (2.) If, by the service of God, is meant the virtue of religion expressed in external action, as saying our prayers, receiving the holy sacrament, visiting churches, sitting at the memorials of martyrs, contemplation, fasting, silence, solitude, and the like, then it is as certain, that the service of God, in this sense, is to be preferred before many things, but

not before all things; not before many things of our ordinary life, not before many things of civil society. For to keep a holy day is a part of the service of God, but not to be preferred before bodily labour in our trade, if that labour be necessary for the feeding our family with daily bread. Contemplation is an excellent part of the divine service; but charitable actions are more useful. To hear a good sermon is good; but to snatch even an ox out of a pit is to be preferred before it. This our blessed Saviour taught us in those excellent words, "I will have mercy and not sacrifice." For not only the precise virtue of religion is the divine service, though, by propriety, it hath obtained the name: but the doing all our duties, the works of our calling, all charitable ministries, all useful trades, all the graces of the Spirit expressed in actions and obedience, is the service of God, and of one it cannot be said, it is better than another; for they shall be required in their season. For,

8. (3.) It is one thing to inquire, which is, in itself, more excellent, and another thing to ask which are to ch ose; one thing to say, 'This is to be preferred in estimation,'—and another to say, 'This is to be preferred in practice.' Ecstasies and raptures and conversing with blessed spirits are certainly actions and passions, respectively of greater eminency than dressing the sores of poor boys in hospitals; and yet he that does this, serves Christ and does good, while he that follows after the others, may fall into the delusions of the devil. That which is best in itself, is not best for me: it is best for the best state, but not for the state of men, who dwell in imperfection. Strong meat is better than milk, but this is best for babes; and therefore he would but ill consult the good of his child, who, because it is a princely boy, would feed him with beef and venison, wild boar and the juice of great fishes. Certainly a jewel is better than a piece of frieze; and gold is a more noble and perfect substance than barley: and yet frieze and barley do, in their season, more good than gold and jewels, and are therefore much more eligible. For every thing is to be accounted of in its own place and scene of eminency: the eye loves one best, and the tongue and palate, the throat and stomach, love the other. But the understanding, which considers both, gives the value according to the degree of usefulness, and to the end of its ministry. Now

though our understanding can consider things in their own perfections, and proportion honour and value to them; yet that which is better than honour, love and desire, union and fruition, are due to those things most, which, it may be, we honour least. And therefore there are some parts of the service of God, which are like meat and clothes, and some which are like gold and jewels; we value and admire these, but we are to choose the other: that is, we prefer one in discourse, and the other in use; we give better words to one, and better usages to the other. And therefore those parts of the divine service, which are most necessary, and do most good to mankind, are to be chosen before those, that look more splendidly, and in themselves import more perfection. The foundation of a house is better than the roof, though the roof be gilded; and that part of the service of God, which serves the needs of mankind most, is to be chosen before those, which adorn him better: so that actions of high and precise religion may be the excellences and perfections of a human soul; but the offices of civil governors, their keeping men in peace and justice, their affrighting them from vile impieties, may do much more good to mankind, and more glory to God in the whole event of things.

9. (4.) But then if it be inquired, whether is better, prayers or government, a pulpit or a court of judicature;—I am to answer, that they are both best, in their time. The pulpit rules on Sundays, the court of judicature all the week after. The pulpit guides the court, and the court gives laws to the pulpit. The pulpit gives counsel to this, and this gives commands to that. But there is this difference; if the pulpit says amiss, we are not bound by it: but if the court judges ill, we may complain, but we must submit. But then to inquire which is better, when they are both the servants of God, is to make a faction in the house of unity; and as there can be no good end served in it, so there can be no good ground of reason or revelation by which it can be determined.

10. (5.) If the question at last be, whether is to be preferred, the service of God, that is, an act of religion, or an act of civil life; I answer, that ordinarily religion is to be preferred, when there can be a question reasonably asked, which is to be chosen. That is, if it be indifferent as to the

person, there is no indifference in the thing: for the religious act does more honour to God and more good to us. But it is because that where our life and time are empty of other duties, then and there are the time and proper season of religion. But if it be not indifferent to the man, but an act of life or civil calling be in its season and appointment, then this is to be preferred before that.

11. (6.) Lastly, it is to be observed, that there are seasons ordinary and extraordinary, in our services of God. Every thing, in its season, is to be preferred: and therefore, upon festivals, we are to go to church and to public offices; upon other days, to follow the works of our calling: and so prefer both in their time. But sometimes these ordinary seasons are invaded by extraordinary necessities; and then that must prevail, which is most necessary in its season, and the other must give place. Now because this happens often in the needs of our life, and not very often in the needs of religion, therefore, in cases of natural or political necessities, the things of the commonwealth are to be preferred before the things of the church; that is, the service of God in charity before the service of God in the virtue of external religion: and the reason is, because this can stay, and the other cannot; and this can be supplied with the internal, that is, the religion of the heart, but that cannot be supplied with the charity of the heart.

Question II.

Which are to be preferred, and which are better, things spiritual or things temporal.

12. To this the patrons of ecclesiastical monarchy give a ready answer out of St. Gregory Nazianzen [s], speaking to the presidents: "Nam vos quoque potestati meæ meisque subselliis lex Christi subjecit. Imperium enim ipsi quoque gerimus, addo etiam præstantius ac perfectius; nisi verò æquum est spiritum carni fasces submittere, et cœlestia terrenis cedere;" "The law of Christ hath subjected you also, that are civil magistrates, to my chair. For we also have an empire, yea a better and more perfect than yours; unless it be reasonable, that the spirit should submit to the flesh, and heavenly things give place to earthly." For temporal things belong to the body, and spiritual things to the soul; by how

[s] Orat. 15. ad Subd. Tim. Percal.

much therefore the soul is above the body, by so much spiritual things are above the temporal. For a temporal end is and ought to be subordinate to a spiritual; because temporal felicity is not the last end of man, but spiritual and eternal: this therefore being the greatest, ought to be ministered to by the cession of the temporal.

13. To this I answer, that temporal things ought to yield to spiritual, if by spiritual things be meant the glory of God and the good of souls, but not to every thing that is spiritual. For though it be a spiritual employment to serve God in the communion of saints, and the life of a man be a temporal thing; yet a man is not bound to lose his life to go to public churches; but for his own soul's salvation, for the promotion of religion, and the honour of God, he is. A man is very much better than a beast; yet the life of a beast is better than the superfluous hair of a man's beard. The honour and reverent usage of churches is a spiritual concern and a matter of religion; and yet when an army is hard put to it, they may defend themselves by the walls and strength, and preserve their lives with a usage of the church, which was never intended by the patron that built it, or the bishop that consecrated it. When temporal life and eternal are compared, when the honour of God or the advantage of a man are set in opposition, when the salvation of a soul and the profit of trade are confronted, there is no peradventure but the temporal must give way to the spiritual. But when a temporal necessity and a spiritual advantage are compared, the advantage, in the nature of the thing, is overbalanced by the degree of the necessity, and the greatness of the end; and it is better to sell the chalices of the church, and minister to religion in glass or wood, than to suffer a man to starve at the foot of the altar. The consequent of this consideration is this, that although spiritual things are better than temporal, yet not every thing of spiritual nature or relation, is to be preferred before all temporals.

14. (2.) Another consideration is this, that there is difference also in the degrees and measures of cession or yielding, temporal things must yield; that is, we must so order affairs, that by them we serve God; our money must go forth in justice and charity,—our time must yield up portions to religion, our persons must decline no labour for God's

service; and if ever there comes a contest between our duty and our profit, or our ease, or our advantage, we must, by the loss of these, secure our gains and our interest in that. But this preferment of one before another, does not consist in giving to one secular advantages before the other, temporal honours, and precedences in processions, in escutcheons and achievements, but in doing the duty of that which is incumbent, and making the other minister to that, which is more necessary. He that prefers religion before the world, is not tied to bestow more money upon his chapel than upon his house. If God had chosen him one place of residence, and a temple for his house and for the religion of the nation, as he did among the Jews, there had been a great decency and duty of doing so upon many accounts; for then the question had been between religion and irreligion, zeal and contempt, love of God and neglect; and then the determination had been easy. But now since the whole end of internal religion can be served, by giving to places of religion that adornment, which may make the ministries decent and fitted, and of advantage: beyond this, when we come to a dispute between that which is in order to a spiritual end, and that which serves a temporal,—more things are to come into consideration, besides the dignity of the relation.

15. (3.) For it is yet farther to be observed, that when it is said, that all temporal things are subordinate to our spiritual ends, the meaning is, that all the actions of our life, all that we are, all that we have, must be directed actually or habitually to the great end of man, the glorification of God, and the salvation of our souls; because God hath ordained this whole life in order to that; and therefore, in the generality, it is true, that all temporal things are to minister to spiritual. But then this is to be added, that temporal things are not ordained to minister to spiritual intermedial things, such, I mean, which are not, directly, and in circumstances, necessary. I must serve God with my substance: therefore I must, by my substance, contribute to the just and appointed ministries of religion: but it does not follow, that if the church multiply priests unnecessarily, and God hath multiplied my children naturally, that therefore I must let my children want, to feed the numerous company of them, that can minister spiritual things. The whole is subordinate to the whole, that is,

all our temporalities are given us to serve God with: but then they are given us also to serve our own needs, that we may serve God; but they are not any other ways subordinate, but to enable us to serve him, not to serve the particular spiritual end, unless it be by accident, that is, not unless we cannot serve God without it.

16. (4.) For temporal things and spiritual things have both the same supernatural end, that is, God's glory and eternal felicity. And sometimes they severally tend to this end, and then they are to go their own ways, and not to minister and be subordinate to each other. But sometimes they are to combine and to co-operate, and then temporal things must serve spiritual, and spiritual must serve the temporal. For example. The temporal or civil power hath for its end public tranquillity, that men may serve God in all godliness and honesty. The ecclesiastical power hath the same end: Ἱερωσύνη καὶ βασιλεία εἰς ἓν ὁρῶσι τέλος, τ�ων ὑπηκόων σωτηρίαν, said Isidore Pelusiot.—I shall not now consider the whole effect of this truth; but in order to the present say, that, since both temporal and spiritual things minister to the same end, that is, salvation of mankind, they are distinct methods or instruments to that end, and, of themselves, are not in subordination to one another; but as temporal things must serve spiritual, when there is need,—so must spiritual serve the temporal, when they require it: the temporal power must defend religion, and religion must minister to the public peace. The prince must give advantages to the ministers of religion; and the ministers of religion must pray for the prince's armies, his prosperity, his honour,—and, by preachings and holy arts, must give bridles to the subjects, keeping them in duty by the means of conscience. The prince, by laws and fear, makes men just and temperate, chaste and peaceable: the priest does but the same thing by the word of his proper ministry. He that does it most effectually, is the most happy: but he, that will go about to compare which does it most, and therefore is to be preferred, —shall then hope to do it prosperously, when he can tell which side of the equinoctial hath most stars,—or whether hath most drops of water, the northern or the southern sea. The sum of this consideration is this; that although temporal things in their latitude are to serve spiritual ends, mean-

ing the great end of the perfection of our spirits,—yet so must the intermedial spiritual things serve the same great end; but the intermedial temporal and the intermedial spiritual are not subordinate to one another, unless it be by accident, and that may, and often does, happen on either side.

17. But I must add one thing more for explication: and that is, that, though all things in the world are to minister to the great end of souls, and consequently are subordinate to that great end; yet it is (that I may use St. Paul's expression in another case) "by reason of him, that hath put all things under it:" for this subordination is not natural, or by the nature of the thing, but by the wise economy and disposition of God; who having appointed, that all things shall "be sanctified by the word of God, and prayer;" that natural powers shall be heightened by grace, and shall pass into supernatural, and this world into another, hath, by his own positive order, disposed of temporal things and powers beyond their own intention. But otherwise, temporal things have an ultimate end of their own, terminating all their natural intention and design. Thus the end of the mariner's art is not the salvation of the souls of them that sail with him, but the safe landing of their persons and goods at the port; and he that makes statues, hath for his end a perfect image. Indeed, the man may have another end, to get reputation, to maintain his family, to breed up his children "in the nurture and admonition of the Lord," and at last the salvation of his own soul, by doing things honest and profitable: but though these may be the ends of the man, yet they are not the ends of his art; and therefore, his art hath no natural subordination, because it hath no natural order to eternal salvation. And this is the case of many temporal things, especially arts, offices, intercourses, and government. Therefore supposing all that is said in the objection, that temporal felicity is not the last end of man, but spiritual and eternal, yet though it be not the end of a man, it may be the end of human government; and by not being in a natural order to spiritual ends, though spiritual be a better thing, yet it follows not that it ought to take place of that, upon the account of its being better in another kind. The body indeed is subordinate to the soul, because it hath all its motion and operation and life from the soul, and in a natural

conjunction and essential union is its appointed instrument; but temporal things and spiritual are not so conjoined, and do not naturally, but by accident, minister to each other; and therefore are made subject to each other alternately, when they are called to such accidental or supernatural ministrations.

Question III.

Whether are to be preferred, spiritual or temporal persons?

18. How spiritual things are to be preferred before temporal, I have already accounted; but it is a consideration distinct from that, whether spiritual persons be to be preferred before temporal. For from things to persons it will not follow; and he that hath a better art, is not always the better man; and he that is employed in the best concernments, hath not always the advantage of profession. There was a time in Rome, when the physicians were but servants, and had not the liberty of Romans; but certainly it is a better trade than fighting: and yet then the soldiers were accounted the greater men. Herod, the sophister, had a son that was a fool, and could never learn the alphabet; but he had two-and-twenty slaves that were wise fellows; but the master was the better man. But when the question is concerning the honour and dignity of persons, we are to remember, that "honor est in honorante:" many men deserve honour that have the least of it, and it is, as it is put upon us by others. To be honoured is to have something put to them, it is nothing of their own. Therefore in this question there are two things to be asked: the one is, what spiritual persons deserve;—the other is, what is given them.—They may deserve more than they have, or they may have more than they deserve; but whether either or neither happens, "he that honours himself, his honour is nothing:" but he is honourable, whom God or the king honours: and therefore spiritual persons ought to receive much, but to challenge none; and above all things ought not to enter into comparison with them, from whom all temporal honour is derived. But when the question is concerning the prelation of secular or ecclesiastic persons, the best answer is given to it, when they strive to prefer one another "in giving honour to teach other." But I remember, that the legates at Trent were her-

ribly put to it to place the orators of the kings of France and Spain, who would both go first: they at last found an expedient, and they did both go first, and both were preferred in several positions. So is the spiritual person and the civil; they are both best, but the honour of one is temporal, and the honour of the other is spiritual; or rather, one is properly called honour, and the other, reverence. "Honour the king, reverence his priests." But this question is not properly a question of right, but of duty: and the spiritual man must not call for it, but the other must pay it. And it is something a sad consideration to think, that all the questions of the preference and comparison of spiritual and temporal persons do end in covetousness and ambition, to which spiritual eminency, let it be ever so great, was never intended to minister. For the honour due to spiritual persons, for their spiritual relation, is a spiritual honour; and that, though it be ever so great, cannot well be compared with temporal; for it is a great honour in another kind: but whatsoever temporal honours are given to them, are then well given, when they are done in love to religion; and are then well taken, when the advantage passes on to the good of souls, and does not sully the spiritual man with spiritual pride, or temporal vanity. Socrates complains that the bishops of Alexandria and of Rome were fallen into empire, or dominion. That is none of the preference proper to a spiritual man. He is then honoured, when his person is had in reverend and venerable esteem,—when his counsel is asked,—when his example is observed and followed,—when he is defended by laws and princes,—when he is rescued from beggary and contempt,—when he is enabled to do his duty with advantages,—when he can verify his ecclesiastical power,—when he can vindicate religion from oppression,—and lastly, when his person, which is the relative of religion, receives those advantages, which, as a man, he needs, and which can adorn him as such a man. But if he disputes for any other honour, so much is his due as is given him by Christian princes or commonwealths, and no more; and he will gain the more by making no further question. Christ gave his apostles power abundantly; but the greatest honour he gave them, was to suffer for his name; and of this, he promised, they should want nothing: but when kings

became nursing fathers of the church, and she sucked the breast of queens and princely women, then the spiritual persons and guides of souls had temporal honours heaped on them, as the offerings were made for the tabernacle, more than was sufficient. For it quickly rose into excess, and then the persons of the prelates fell into secular affections, and grew hated and envied and opposed. Ammianus Marcellinus, giving an account of that horrible sedition, raised in Rome in the contest between Damasus and Ursin about the papacy, says, he wonders not, that the prelates did so earnestly contend for the bishoprick of Rome; "cum id adepti, futuri sint ita securi, ut ditentur oblationibus matronarum, procedantque vehiculis insidentes, circumspecte vestiti, epulas curantes profusas, adeo ut eorum convivia regales superent mensas;" "because when they have obtained it, they are safe and warm, full with the oblations of the good women, and are carried in their caroches, and are neatly habited, and splendidly feasted, and themselves keep tables beyond the profuseness of kings."—Now although bishops are men, and religion itself is served by men, who have bodies and secular apprehensions, and therefore does need secular advantages; yet this belongs to them as men, not as spiritual. It is just as if you should call the general of an army 'holy father,' and beg his blessing, and set him in the chiefest place of the choir, and pray him to preach upon the greatest festivals of the year, and run in multitudes to hear him speak. These are the proper honours of spiritual persons; and the splendour of the world is the appendage of secular achievements: whatsoever is necessary for their persons, in order to the advantages of religion, is very fit to be given by princes to the bishops, who will certainly modestly entertain it, and by pious conduct transfer it to the glory of Christ and the good of souls. But this is none of the honour, that Christ invested their holy order with: they have an honour and a blessedness, which none but themselves can take from them. The rosary of Christian graces is the tiara of their head, and their office is their dignity, and humility is their splendour, and zeal is their conquest, and patience is their eminence, and they are made illustrious by bringing peace, and promoting holiness, and comforting the afflicted, and relieving the poor, and making men and women useful to the public, and charitable in their

ministries, and wise unto salvation. This is that which was spoken by God in the prophet Isaiah [t], "Since thou wast precious in my sight, thou hast been honourable." And this was observed by the Pagan, who, being surprised with the secular splendour of the Roman bishops, liked it not, but said that there was another way for them to be truly happy: "Esse poterant beati revera, si, magnitudine urbis despectâ, quam vitiis opponunt, ad imitationem antistitum quorundam provincialium viverent, quos tenuitas edendi potandique parcissimè, vilitas etiam indumentorum, et supercilia humum spectantia, perpetuo numini verisque ejus cultoribus ut puros commendant et verecundos." They are the words of Ammianus Marcellinus whom I lately mentioned: "The Roman bishops might indeed be truly happy, if they, despising the splendours of the city, would live as some bishops in the provinces, whom their temperate and spare diet, their plain habit and their humble carriage, represent to God and all God's servants, as persons pure and modest." But then if this discourse have any thing of reason, piety, or truth, in it, it must needs be infinitely certain, that spiritual persons are to be preferred before the temporal in spiritual honours, but not in temporal regards; they have nothing to do with them by virtue of their order or their office: what they have to their persons by the favour of princes and nobles, is of another consideration, and so this question is changed into an advice, and best ends in a sermon or declamation.

Question IV.

Whether the eminence of the spiritual calling, and the consequent prelation of spiritual persons, can exempt them from secular coercion, and make them superior to princes.

19. In what senses bishops have any superiority over princes, I shall afterward explain: now the question concerning secular superiority, and immunity from the temporal sword of princes. Now to this, I suppose, what I have already said, may be able to give an answer. For the spiritual order gives no temporal power at all; and therefore, if all temporal power be in the supreme civil magistrate, all men that can deserve to feel the edge of the sword, are subject to it. For what? Had Archimedes reason to take it ill of

[t] xliii. 4.

the Romans for not sending for him and making him general in the Syracusan war, because he was a better geometrician than any of all their senate? Lewis XI. of France had a servant, who was an excellent surgeon, and an excellent barber, and dressed his gout tenderly, and had the ordering of his feet and his face, and did him many good offices. But the wise prince was too fond, when, for these qualities, he made him governor of his counsels. Every good quality, and every eminence of art, and every worthy employment, hath an end and design of its own; and that end and the proportions to it are to be the measure of the usage of those persons, which are appointed to minister to it. Now it is certain that spiritual persons are appointed ministers of the best and most perfective end of mankind, but to say that this gives them a title to other ministries, which are appointed to other ends, hath as little in it of reason as it hath of revelation. But I shall not dispute this over again, but shall suppose it sufficient to add those authorities, which must needs be competent in this affair, as being of ecclesiastic persons, who had no reason, nor were they willing, to despise their own just advantages, any more than to usurp what was unjust.

20. When Origen complained of the fastuousness and vanity of some ecclesiastics in his time, they were bad enough, but had not come to a pretence of ruling over kings upon the stock of spiritual prelation: but he was troubled, that some had quit their proper excellency, consisting in the multitude of spiritual gifts, their unwearied diligence in the care of souls, their dangers; their patience, their humility, and their dying for Christ. "Et hæc nos docet sermo divinus," saith he, "'The word of God teaches us these things:' But we either not understanding the divine will set down in Scriptures, or despising what Christ to such purposes recommended to us, are such that we seem to exceed the pride even of the evil princes of the world: and we do not only seek for guards to go before us like kings, but are terrible to the poor, and of difficult access, and behave ourselves towards those, who address themselves to intercede for some thing or some person, that we are more cruel than tyrants, and the secular lords of their subjects. And, in some churches, you may see (especially in the churches of the greatest cities)

the chief of the Christian, people neither affable to others, nor suffering others to be free in their intercourses with them."—These things are out of the way of the ecclesiastics; for these things cannot consist with piety and humility,—and the proper employments of such persons, who gained the world by cession, and not victory over whole kingdoms, by trampling upon devils, and being trampled upon by men. Bishops should be like the symbols of the blessed sacrament, which although for the ornament of religion, and for our sakes, and because we would fain have opportunity to signify our love to Christ, we minister in silver and gold, yet the symbols themselves remain the same plain and pure bread and wine, and altered only by prayers, and by spiritual consecration, and a relative holiness. But he were a strange superstitious fool, who, because the sacramental bread and wine are much better than all the tables and viands of princes and all the spoils of nature, will think it fit to mingle sugar and the choicest spices of Arabia with the bread, and ambergris and powder of pearl and the spirit of gold with the chalice. These are no fit honours to the holy sacrament: the symbols of which are spoiled, when they are forced off from the simplicity and purity of their institution and design. So it is with spiritual persons: their office is spiritual, and their relation is holy, and their honours are symbolical. For their own sakes, princes and good people must cause decent and honourable ministries and accommodations to be provided for them; but still they must remain in their own humility and meekness and piety, and not pretend to dignities heterogeneal and eminences secular, because their spiritual employment is very excellent. It was St. Gregory Nazianzen's[u] wish, that there were in the church μηδὲ προεδρία μηδέ τις προτίμησις καὶ τυραννικὴ προνομία, ἵν' ἐξ ἀρετῆς μόνης ἐγινωσκόμεθα, "neither precedency of episcopal sees, nor any eminency of one place above another, nor any tyrannical or pompous provisions and solemnities, that we might be distinguished only by our virtue."—Now if prelation by order and ecclesiastical economy amongst the bishops was of so ill effect, so little necessary, and so greatly inconvenient, that the good bishop wished there was no such thing;—there is little reason to doubt, but he would

[u] Orat. post Reditum.

have infinitely condemned all pretensions of a power over civil governments. But the bishops of Rome were not at that time gone so far. The Archimandrites of Constantinople, complaining against the Eutychians, write to Pope Agapetus, that if they be still permitted, "licenter omnia accedent, non contra ecclesiasticos solos, sed etiam contra ipsum piissimum imperatorem, nostrum et vestrum honorabile caput," "they will do insolences, not only to the ecclesiastics, but also to our most pious emperor, who is the honourable head both of you and us[x]." This power of headship or supremacy over the whole order ecclesiastical was acknowledged in the church for about a thousand years: for besides the apparent practice and approbation of it, which I brought in the former pages, we find that the emperor Henry II. did deprive Widgerus of the archbishopric of Ravenna, and deposed Gregory VI. from the papacy[y].

21. And therefore we find, that those ancient prelates, that called upon princes to pay reverence to them, and an acknowledgment of that authority which Christ intrusted in their hands, accounted them wholly to be distinct things, and not at all invading each other's limits. For Christ, by making them Christians, did not make them less to be princes: and Christian emperors could not go less than the heathens; they were certainly no losers by their baptism. For it had been a strange argument for Sylvester to have used to Constantine, 'Sir, give up yourself a disciple to the most holy Jesus, and you shall have a crown hereafter; and here also you shall still reign over all but me and my clergy; to us indeed you must be subject, and by us you must be governed, but the crown imperial shall be greater than every thing, our mitres only excepted.'—If this had been the state of the question, I wonder by what argument the prince could have been persuaded to become Christian: when it was so obvious for him to say, that Sylvester had reason to move him to preach Christ, since he got so much temporal advantage by it, but that he could see little reason, why himself shall lose and Sylvester get, and become a disciple of Christ to be made a minor and a pupil to the bishop. And indeed it would have been a strange sermon, that preaches humility to emperors and dominion to bishops. But their sermons,

[x] In 5. synod. act. 1. tom. 2. concil. [y] Herman. in Chron.

when they were at the highest, were of another nature. "De humanis rebus judicare permissum est, non præesse divinis:" so Pope Gelasius[a] declares the limit of the imperial and priestly power: "Of all things belonging to this world the emperor is to judge; but not to be the president or chief minister of holy rites." Gelasius spake it upon occasion, because Anastasius the emperor did unnecessarily interpose in the absolution of Peter, bishop of Alexandria. This Pope Gelasius supposed was of another nature, and not relative to the things of this world, and therefore not of imperial cognizance. But all the things of this world belong to him. And if all things of this world, then all persons of this world. For 'Circa actiones proprie versatur imperium,' say the lawyers; "Rule and empire and all power of judicature, are principally concerning actions;" but actions are done by persons, who therefore are subject to government. And upon this account the African bishops petitioned the emperor, that he would compel Paul the bishop of Constantinople to be of the Catholic communion[a]. And the fathers of the ninth council of Toledo, making provisions against those ecclesiastics, who prevented the just dividend of the public oblations, they first order them to be privately reproved, or else to be delated to the bishop, or to the judge. But if the bishop cozen the corban, let him be delated to the metropolitan: but if the metropolitan do any such vile thing, "regis hæc auribus intimare non differant;" "let him without delay be accused unto the king." And Lambert the emperor, about the year of our Lord 900, having some contest with the Pope, propounded this first article in a synod at Ravenna[b]; "If any Roman of the clergy or the senate, of what order soever, shall, either voluntarily or by compulsion, appeal to the imperial majesty, let no man presume to contradict him:—until the emperor, by himself or his missives, shall deliberate concerning their persons and their causes." Thus we find Pope Leo IV.[c] submitting himself to Lotharius the emperor, and promising obedience: and to Ludovicus he professes, that, if he have done amiss, he will amend it according to his sentence, or the judgment of his deputies. Upon

[a] Tom. de Vinc. Anathem. [a] Concil. Later. consult. 2. sub Martino. I.
[b] Apud Baron. tom. 10. A. D. 904. n. 17.
[c] Dist. 10. cap. de Capitulis. 2. q. 7. cap. Nos si.

the consideration of these and many other particulars, Gratian, though unwillingly, confesses [d], that, in civil causes, a clergyman is to be convened before the civil judge: and although a little after he does a little prevaricate in the matter of criminal causes, yet it was too late; for he said it before [e], "Regum est corporalem irrogare pœnam," "Kings have the power of inflicting corporal punishments:" and therefore if a clerk were guilty in a criminal cause, the secular judge had power over him, said the fathers of the first council of Matisconf. But it matters not much,—for a greater than Gratian said it in his own case before the civil power, "If I have done any thing worthy of death, I refuse not to die:" they are the words of St. Paul.

Question V.

Whether is to be obeyed, the prince or the bishop, if they happen to command contrary things.

22. To this I answer, that it is already determined, that the emperor is to be obeyed against the will of the bishop. For so it was in the case of Mauritius and St. Gregory; for the bishop was fain to publish the prince's edict, which yet he believed to be impious. It was also most evident in St. Athanasius of Alexandria, St. Gregory of Nazianzum, St. Chrysostom of Constantinople, Eusebius of Samosata, who, by injustice, were commanded to leave their diocesses.

23. But this is to be understood in actions, which can, by empire and command, be changed into good or bad respectively: because such actions are most properly the subject of human laws. For in what God hath expressly commanded or forbidden, the civil or ecclesiastical power is only concerned to the interest of the divine commandment, to promote or to hinder good and evil respectively. But whatsoever is left undetermined by God, that the supreme power can determine: and, in such things, if there could be two supreme powers, the government were monstrous, and there could be no obedience; for "No man canserve two masters." Now the supreme power hath in this no limit, but that which limits both powers,—the laws of nature and the laws of Jesus Christ: and if there be any thing commanded by

[d] 11. 9. 1. cap. Sicut enim sect. Ex his. [e] 2. q. 2. sect. Item. [f] Cap. 7.

the prince against these, the bishop is to declare the contrary, that is, to publish the will of God, provided it be in an evident matter and without doubtful disputation. And then, this being provided for, the case cannot be supposed, that the king and the bishop, both doing their duty, can command things contrary. I do not say, but a temporal law may be against the canons of the church; but then we are to follow the civil law, because the power is, by the law of nature, supreme and imperial. The matter of the civil power and ecclesiastical is so wholly differing, that there, where either hath to do, it cannot contradict the other; but if they invade the rights of one another, then the question grows hard. But the solution is this;

24. If the bishop invades the rights of the civil power, he is not at all to be obeyed; for he hath nothing to do there. But if the civil power invades the rights of the bishop, then they are either such rights, which are his by positive laws and human concession, or such which, by divine appointment, are his due.

25. All those which are the bishop's rights by positive laws may, by the same power, be rescinded, by which they were granted; and therefore if a king makes a law against the rights of the church, and the bishop protests against that law, the king and not the bishop must prevail. For "Neminem sibi imperare posse, et neminem sibi legem dicere, à qua mutata voluntate nequeat recedere," say the lawyers. 'A man may change his will as long as he lives; and the supreme will can never be hindered: for "Summum ejus esse imperium, qui ordinario juri derogare valeat," is a rule in law; 'He that is the supreme, can derogate by his power from an ordinary right,' viz. by making a contrary law.

26. But if they be the rights of bishops and the ministers of religion by divine appointment, then the bishop's command is to prevail, 'cum conditione crucis:' that is, so as the subject must submit to the prince's anger, and suffer for what he cannot do, according to that of St. Austin; "Imperatores cum in errore sunt, pro errore contra veritatem leges dant, per quas justi et probantur et coronantur, non faciendo quod illi jubent, quia Deus prohibet;" "Mistaken princes make ill laws; but by them good men are tried and crowned, by not doing what God hath forbidden them." This is much

more modestly expressed than the responsory in the Roman breviary [f], speaking of the apostles: "Isti sunt triumphatores et amici Dei, qui contemnentes jussa principum meruerunt præmia æterna," "They have deserved eternal rewards by despising the commands of princes." The expression is hard; for though their impious laws are not to be obeyed, yet indefinitely it is not safe to say, their commands are to be despised. And none ever less despised the laws than they, who, because they could not obey them against God, yet obeyed them against themselves; by suffering death at their command, when they might not suffer a sin.

27. But then this also suffers diminution. For if the ecclesiastical power, in such things where their authority is proper and competent and divine, give any negative or prohibitive precepts, they may and they must be obeyed entirely; because every negative is indivisible, and hath neither parts nor time: and in this they are but proclaimers of the divine commandment, which if it be negative, it can never be lawful to do against it. But in positive instances of commandment, though from divine authority (for that is the limit of the ecclesiastical power and authority), if the king commands one thing and the bishop another, they are severally to be regarded according to the several cases. For the rule is this,—that all external actions are under the command of the civil power in order to the public government:—and if they were not, the civil power were not sufficiently provided for the acquiring the end of its institution: and then it would follow, that either the civil authority were not from God (expressly against St. Paul); or else all that God made, were not good, as being defective from the end of its creation (expressly against Moses, and indeed against the honour of God). Now because external actions are also in order to religion internal, it happens that the spiritual power hath accidentally power over them. Here then is the issue of this inquiry: When an external action is necessary to the public service, and yet in order to religion at the same time, the positive commands of the spiritual superior must yield to the positive commands of the supreme civil power. For that, which hath a direct power, is to be preferred before that, which hath but an indirect power. Thus it is a divine precept, that we should

[f] De Communi Apost. r. 6.

not neglect 'the assembling of ourselves together.' Upon the warranty of this, the guides of souls have power to command their flocks to meet at the divine service; and they are tied to obey. But if, at the same time, the prince hath given command, that those persons, or some of those who are commanded to be at the divine offices, be present on the guards, or the defence of the city-walls, they are bound to obey the prince, and not the priest, at that time. For besides the former reason, when external actions are appointed by competent authority, they are clothed with circumstances, with which actions commanded by God, and in which ecclesiastics have competent authority, are not invested: and, amongst those circumstances, time and place are the principal. And therefore it follows, that, in external actions, the command of the prince is always to be preferred before the command of the church; because this may stay, and that cannot: this is not by God determined to time and place, but that is by the prince; and therefore by doing that now, and letting this alone till another time, both ends can be served; and it were a strange peevishness of government (besides the unreasonableness of it) to cross the prince to show our power, when both may stand, and both may be obeyed; if they did not crowd at the same narrow door together, there is time enough for them to go out one after another; and by a little more time, there will be a great deal of more room. I have heard, that when King James VI. of Scotland was wooing the Danish lady, he commanded the provost of Edinburgh and the townsmen upon a certain day to feast the Denmark ambassadors, and to show all the bravery of their town and all the splendour they could: of which when the presbytery had notice, they, to cross the king, proclaimed a fast to be kept in the town upon that very day. But the townsmen, according to their duty, obeyed the king: and the presbytery might have considered, that it was no zeal for God, that the fast was indicted upon that day; but God might have been as well served by the Tuesday fast as by the Monday. Thus if the ecclesiastic power hath admitted a person to ecclesiastical ministries or religions, if the supreme civil power requires his service, or if he be needed for the public good, he may command him from thence, unless there be something collaterally to hinder; as if the

prince have sworn the contrary, or that the person required have abjured it by the prince's leave: but supposing him only bound by the ecclesiastical power, the supreme civil power is to prevail over it, as being the lord of persons and actions external. An instance of this was given by Mauritius the emperor, forbidding his soldiers to turn monks without his leave, though the law was made sore against the mind of St. Gregory, who was the bishop of Rome. And thus Casimire[s] king of Poland was taken from his gown, and invested with a royal mantle; and divers monks have been recalled into the employments of armies, or public counsels, or public governments.

28. But this also is to be understood with this provision. The supreme civil power hath dominion over external actions, so as to govern them for time and place and other circumstances. He can forbid sermons at such a time; he can forbid fasts or public solemnities and meetings when he please, when it is for the interests of government: and concerning any accident or circumstance and manner, he can give laws, and he must be obeyed. But he cannot give laws prohibiting the thing itself, out of hatred or in persecution of the religion: for then the ecclesiastic power is to command not only the thing, but the circumstances too. For the thing itself, it is plain: because it is a divine commandment, and to this the spiritual power must minister, and no civil power can hinder us from obeying God: and therefore the apostles made no scruple of preaching Christ publicly, though they were forbidden it under great penalties. But then for the circumstances, they also, in this case, fall under the ecclesiastical power. If the prince would permit the thing, he might dispose of the accidents; for then he is not against God, and uses his right about external actions. But if he forbids the thing, they that are to take care, that God be obeyed, must then invest the actions with circumstances; for they cannot be at all, unless they be in time and place; and therefore, by a consequent of their power over the thing, they can dispose the other, because the circumstances are not forbidden by the prince; but the thing, which being commanded by God, and not being to be done at all but in circumstances, they that must take care of the prin-

[s] A. D. 1040.

eipal, must, in that case, take care also of the accessory. Thus we find the bishops, in the primitive church, indicting of fasts, proclaiming assemblies, calling synods, gathering synaxes: for they knew they were obliged to see, that all that should be done, which was necessary for the salvation of souls and instruction of lives by preaching, and for the stabiliment of the church by assemblies and communions. Now the doing of these things was necessary, and for the doing of these they were ready to die; for that passive obedience was all, which they did owe to those laws, which forbade them under pain of death: for it was necessary those things should be done, it was not necessary they should live. But when the supreme civil power is Christian, and does not forbid the thing, there is no danger that God shall not be obeyed by the prince's changing and disposing the circumstances of the thing; and therefore there can be no reason, why the prince should be disobeyed, commanding nothing against God, and governing in that where his authority is competent. Thus if the supreme civil power should command, that the bishops of his kingdom should not ordain any persons, that had been soldiers or of mean trades, to be priests, nor consecrate any knight to be a bishop; though the bishops should desire it very passionately, they have no power to command or do what the civil power hath forbidden. But if the supreme should say there should be no bishops at all, and no ordination of ministers of religion according to the laws of Jesus Christ, then the question is not, whether the supreme civil power or the ecclesiastical is to be obeyed, but whether man or God: and, in that case, if the bishops do not ordain, if they do not take care to continue a succession in the church of God, they are to answer for one of the greatest neglects of duty, of which mankind is capable; always supposed, that the order of bishops is necessary to the church, and that ordination of priests by bishops is of apostolical institution, and that there is no univocal generation of church-ministers but by the same hands, which began the διαδοχὴ 'succession,' and hath continued it for almost seventeen ages in the church. Of which I am not now to interpose my sentence, but to answer the case of conscience relying upon the supposition. This only I am to add, that supposing this to be necessary, yet it is be done

'cum conditione crucis,' with submission to the anger of the laws, if they have put on unjust armour; and to be done with peaceableness, and all the arts of humility and gentleness, petition and wise remonstrances.

But there is yet one reserve of caution to be used in this case. If the civil power and the spiritual differ in this particular, the spiritual must yield so long, and forbear to do what is forbidden by their lawful supreme, until it be certain that to forbear longer is to neglect their duty, and to displease God. If the duty or if the succession can be any way supplied, so that the interest of religion be not destroyed, then cession or forbearance is their duty. And therefore if the king of Portugal should forbid consecrations of bishops in his kingdom not for a time, but for ever, the bishops were bound to obey, if they could be supplied from other churches, or if it were not necessary, that God should have a church in Portugal, or if without bishops there could be a church. But if they be sure, that the bishops are the head of ecclesiastical union, and therefore the conservators of being; and if the remaining prelates are convinced, that God hath required it of them to continue a church in Portugal (as it is certain that by many regards they are determined there to serve God's church, and to provide for souls and for the religion of their charges); and if they could be no otherwise supplied with ecclesiastical persons of the order and ordination apostolical, as if other churches would not ordain bishops or priests for them but upon sinful conditions, and violation of their consciences: then the spiritual power is to do their duty, and the supreme civil power is to do their pleasure; and the worst that can come, is the crown of martyrdom, which whosoever gets, will be no loser. And therefore I cannot, without indignation, consider it, that the pope of Rome, who pretends to be a great father of Christians, should not only neglect but refuse to make ordinations and consecrations in that church: which if their prince should do, the bishops ought to supply it by their care; and therefore when the prince desires it, as it is infinite dishonour to the bishop of Rome to neglect or refuse, in compliance with the temporal interest of the king of Spain, so it is the duty of the bishops of Portugal to obey their prince. But I have nothing to do to meddle with any man's interest, much less that of

princes: only the scene of this case of conscience happens now to lie in Portugal, and the consideration of it was useful in the determination of this present question.

29. But this question hath an appendant branch which is also fit to be considered. What if the civil laws and the ecclesiastical be contrary? as it happens in divers particulars; as if the prince be a heretic, an Arian or Macedonian, and happens to forbid the invocation of the Holy Ghost, or giving divine honours to the Son of God, and the church hath always done it, and always commanded it. What is to be done in this case? This instance makes the answer easy: for, in matters of faith, it is certain the authority and laws of God have made the determination; and therefore, in these and the like, the church is bound to do and believe and to profess according to the commandment of God. But how, if the prince does not forbid the internal duty (for in that his authority is incompetent) but commands only that there should be no prayers to the Holy Ghost put into the public liturgies of the church? To this the answer is certain, That though, in all externals, the supreme civil power, is to be obeyed, yet the spiritual power, in such cases, is tied to confess the faith, which the prince would discountenance, and to take care, that their charges should plentifully supply, in all their private devotions, what is not permitted to them in public. And the reason of this is not that they are tied to do any thing in opposition or scandal to the prince; but that they are in duty and charity to provide, lest the public discouragement and alteration of the circumstance of the duty, do not lessen the duty internal and essential: and therefore they are to put so much more to the private, that they may prevent the diminution which is likely to come upon the private duty from the public prohibition.

30. But there are some civil laws, which are opposed to ecclesiastical, not by contrariety of sanction and command, 'hinc inde,' but by contrariety of declaration or permission respectively. Thus if the ecclesiastical laws have forbidden marriage in a certain degree, and the civil power hath permitted it, then the subject may more safely obey the power ecclesiastical; because, by so doing, he avoids the offending of religious persons, and yet disobeys no command of the prince; for no civil power usually commands a man to marry

in a certain degree: and therefore when he is at liberty from the civil law, which, in this case, gives him no command, and he is not at liberty from the ecclesiastical law, which hath made a prohibition, he must obey the church; which if it had no power over him, could have made no law, and if it have a power, it must be obeyed; for, in the present case, there is nothing to hinder it. So it is in such things, which are permitted 'for the hardness of men's hearts' or the public necessity. The permission of the prince is no absolution from the authority of the church. Supposing usury to be unlawful, as it is certain many kinds and instances of it are highly criminal, yet the civil laws permit it, and the church forbids it. In this case the canons are to be preferred. For though it be permitted, yet, by the laws, no man is compelled to be a usurer; and therefore he must pay that reverence and obedience, which are otherwise due to them, that have the rule over them in the conduct of their souls.

31. The case is alike in those laws, where the civil power only gives impunity, but no warranty. As in such cases, when laws indulge to a man's weakness and grief; as when it permits him to kill any man, that creeps in at his windows, or demands his purse of him on the highway, or to kill his adulterous wife, if he surprises her in the sin: if the civil power promises impunity, and does not intend to change the action from unlawful to lawful, as in some cases it does, in some it cannot; then, if there be any laws of the church to the contrary, they pass an obligation upon the conscience, notwithstanding the civil impunity. And there is great reason for this. For since the affairs of the world have in them varieties and perplexities besides, it happens, that, in some cases, men know not how to govern by the strictest measures of religion, because all men will not do their duty upon that account; and therefore laws are not made 'ut in Platonis republica,' but as 'in fæce Romuli,' with exact and purest measures, but in compliance and by necessity, not always as well as they should, but as well as they may: and therefore the civil power is forced sometimes to connive at what it does not approve. But yet these persons are to be governed by conscience; and therefore it is necessary, that that part of the public government, which is to conduct our consciences more immediately, should give a bridle to that li-

berty, which, by being in some regards necessary, would, if totally permitted, become intolerable. And therefore the spiritual power puts a little myrrh into their wine, and supplies that defect, which, in the intrigues of human affairs, we bring upon ourselves by making unnatural necessities.

32. But then if it be inquired, whether it be lawful for the spiritual power by spiritual censures to punish those actions, which the civil power permits; I answer, that the church makes laws, either by a declarative and direct power, or by a reductive and indirect power: that is, she makes laws in matters expressly commanded by God or forbidden, or else in such things which have proportion, similitudes, and analogies, to the divine laws. In the first, she is the declarer of God's will, and hath a direct power. In the second she hath a judgment of discretion, and is the best judge of 'fit' and 'decent.' If the church declares an act to be against God's commandment, or bound upon us by essential duty, in that case, unless there be error evident and notorious, she is entirely to be obeyed: and therefore the refractory and the disobedient she may easily coerce and punish by her censures, according as she sees it agreeable and conducing to God's glory and the good of souls, although the civil power permits the fact for necessity or great advantages. And the reason is, because as the civil power serves the ends of the republic by impunity and permission, so there is another end to be served, which is more considerable, that is, the service of God and the interest of souls, to which she is to minister by laws and punishments, by exhortations and the argument of rewards: and as every power of God's appointment is sufficient for its own end, so it must do its own portion of duty, for which so competent provisions are made. And therefore the spiritual power may, in this case, punish what the civil power punishes not. With this only caution, if the civil power does not forbid the church to use her censures in such a particular case: for if it does, it is to be presumed, that such ecclesiastical coercion would hinder the civil power from acquiring the end of its laws, which the ecclesiastical never ought to do: because although her censures are very useful to the ends of the spiritual power, yet they are not ab-

solutely necessary; God having by so many other ways provided for souls, that the church is sufficiently instructed with means of saving souls, though she never draw her sword. But the civil power hath not so many advantages.

33. But if the laws of the church are made only by her reductive and indirect power, that is, if they be such, that her authority is not founded upon the express law of God; but upon the judgment of discretion, and therefore her laws are concerning decencies and usefulnesses and pious advantages,—in this case, the church is not easily to proceed to censures, unless it be certain, that there is no disservice nor displeasure done to the civil power. For it will look too like peevishness to cross the civil laws, where it is apparent, there is no necessity, and no warranty from a divine commandment. The church would not have her laws opposed or discountenanced upon little regards; and therefore, neither must she, without great necessity, do that, which will cause some diminution to the civil laws, at least by interpretation.

34. And after all this, if it happens, that the civil power and the ecclesiastical command things contrary, there is fault somewhere, and there is nothing to be done but to inquire on which side God is; for if he be not on the church's side by a direct law in the matter, he is not on the church's side for her relation, but on the king's side for his authority.

From the matter of the former question arises another like it.

Question VI.

Whether in the civil affairs and causes of the ecclesiastical power and persons, the presumption ought to lie for the king, or for the church.

35. This question must suppose the case to be dubious, and the matter equal on both sides as to the subject-matter; for else there needs to be no question, but judgment must be according to the merit of the cause: and it must suppose also, that neither of them will yield, but use their own right; for if either did, themselves would make an end of the question: but when both are in pretence, and the pretence is equal in the matter and the argument, and that the cause is to be determined by favour and privilege, whether is to be

preferred? I do not ask which is to be preferred in law; for in that question, the laws and customs of a people are the rule of determination: but whether there be in conscience any advantage of presumption due to either.

36. To this I answer, that, in the most pious ages of the church, the presumption was ever esteemed to lie for the church, when the princes were Christians: and when the question is of piety, not of authority,—of charity, not of empire,—it is therefore fit to be given to the church. 1. Because if the civil power takes it to itself, it is a judge and a party too. 2. Because whatever external rights the church hath, she hath them by the donation, or at least enjoys them by the concession, of the supreme civil power, who, in this case, by cession do confirm at least, and at most but enlarge, their donative. 3. Because the spiritual power is under the king's protection, and hath equal case with that of widows and orphans. It is a pious cause of the poor and the unarmed. 4. The king is better able to bear the loss, and therefore it is a case of equity. 5. The church is a relative of God and the minister of religion, and therefore the advantage being given to the church, the honour is done to God; and then, on the king's side, it would be an act of religion and devotion. 6. If the civil power, being judge, prefers the ecclesiastics in the presumption, it is certain there is no wrong done, and none hath cause to complain: but if it be against the ecclesiastics, the case is not so evident, and justice is not so secured, and charity not at all done.

37. And if it be thought, that this determination is fit to be given by a churchman, though it be no objection while it is true and reasonable, yet I endeavoured to speak exactly to truth, and for the advantage of the civil power, though the question is decided for the ecclesiastics. For in such cases, as the ecclesiastics will have advantage, if they in dubious cases never will contend, so the civil power will ever have the better of it, if in these cases they resolve never to prevail.

38. Although these inquiries have carried me a little further than the first intention of the rule, yet they were greatly relative to it. But I shall recall my reader to the sense and duty of it by the words of St. Gregory[h], who says, that "Christus imperatori et omnia tribuit, et dominari eum non

[h] Epist. 64. ad Theodoram Medicam.

solum militibus, sed etiam sacerdotibus concessit?" "Christ hath both given all things to the emperor, and a power of dominion not only over the soldiers, but even over the priests themselves."—And that great wise Disposer of all things in heaven and earth,—who makes twins in the continent of their mother's womb, to lie at ease and peace, and the eccentric motions of the orbs, and the regular and irregular progressions of the stars, not to cross or hinder one another, and in all the variety of human actions, cases, and contingencies, hath so wisely disposed his laws, that no contradiction of chance can infer a contradiction of duty, and it can never be necessary to sin, but on one hand or other it may for ever be avoided;—cannot be supposed to have appointed two powers in the hands of his servants to fight against, or to resist, each other: but as good is never contrary to good, nor truth to truth, so neither can those powers, which are ordained for good. And therefore, where the powers are distinct, they are employed upon several matters; and where they converse about the same matter, as in external actions and persons they do, there one is subject to the other, and therefore can never be against it.

RULE VII.

The supreme civil Power hath Jurisdiction in Causes, not only ecclesiastical, but internal and spiritual.

1. ΒΑΣΙΛΕΥΣ τῶν πρὸς τοὺς Θεοὺς κύριος, said Aristotle[1], "Of things belonging to God, the king is the governor." Therefore besides that the supreme civil power is to govern all persons, and all actions and ministries which are directly external, it is to be considered, that actions internal, as they can be made public, have also influence upon the persons and lives, the fortunes and communities, of men; and therefore either are so far forth to be governed by them, who are governors of men in their lives and fortunes, in their societies and persons, that they may do good to them, or at least do no hurt.

2. Therefore, as the supreme princes and magistrates,

[1] Polit. lib. 3.

have, in several ages of the church, indulged to ecclesiastics a power of civil government, privileges and defensatives 'in ordine ad spiritualia,' that is, to enable them, with the help of the civil power, to advance the interests of religion and the spiritual men, which by evil men is apt to be despised, as all the threatenings of the gospel and the terrors of death, and the horrible affrightments of the day of judgment, are: so God hath given to the supreme civil power authority over all public religion 'in ordine ad bonum temporale.' Princes and states did the other, but God did this. That was well, very well: but this is necessary, and that was not. The reason of both is this, because no external accident can hinder the intentions of God in the effects of religion and the event of souls. Religion thrives as well in a storm and in persecution, as in sunshine. God had more summer-friends under Constantine, but possibly as many true ones under Diocletian; or if he had not, it was men's fault, their weakness, not their necessity. But the civil interest can be really hindered by the intervening of new doctrines and false manners of worship; and the commonwealth, if it be destroyed, hath no recompense in eternity: and therefore God hath not called them happy, when they are troubled, and hath not bidden them to suffer rebellion, or to rejoice when men "speak evil of dignities," and he hath not told them that "great is their reward in heaven;" but the whole purpose and proper end of the government being for temporal felicity, though that temporal felicity is, by the wisdom of God, made to minister to the eternal, the government expires in this world, and shall never return to look for recompense for its sufferings. But every single man shall; and though temporal power can be taken from princes, yet a man's religion cannot be taken from him: and therefore God hath given to princes a supreme power for the ordering of religion in order to the commonwealth, without which it had not had sufficient power to preserve itself; but he hath not given to ecclesiastics a power over princes in matter of government in order to spiritual things. 1. Because though spiritual things may receive advantage by such powers, if they had them,—yet they may do as much harm as good, and have done so very often, and may do so again. 2. Because God hath appointed to spiritual persons, spiritual instruments sufficient to the end

of that appointment. 3. Because he hath also established another economy for religion, the way of the cross, and the beaten way of humility, and the defensatives of mortification, and the guards of self-denial, and the provisions of contentedness, and the whole spiritual armour, and prayers and tears, and promises, and his Holy Spirit, and these are infinitely sufficient to do God's work, and they are infinitely the better way. 4. Because religion, being a spiritual thing, can stand alone, as the soul can by itself subsist: and secular violence can no more destroy faith, or the spiritual and true worship of God, than a sword can kill the understanding. 5. Because if God had given a temporal power to ecclesiastics in order to a spiritual end, then he had set up two supremes in the same affairs, which could never agree but by the cession of one; that is, the two supremes could never agree but by making one of them not to be supreme.

3. And the world hath seen this last particular verified by many sad experiments. For when the Roman emperors, residing in the east, gave great powers and trusts to the patriarchs of the west, by their spiritual sword they began to hew at the head of gold, and lop off many royalties from the imperial stock. And Leo Iconomachus, for breaking down the images of saints, felt their power, for they suffered not the people to pay him tribute in Italy, threatening to interdict them the use of sacraments and public devotions, if they did. But as soon as ever they began by spiritual power to intermeddle in secular affairs, they quickly pulled the western empire from the east, and in a convenient time lessened and weakened that of the west. For Pope John III. combined with Berengarius and Adalbar his son, against the emperor Otho the Great, and they must pretend themselves to be kings of Italy. Pope John XVIII. made a league with Crescentius, and stirred up the people against Otho III. Pope Benedict IX. excited Peter of Hungary to pretend to the empire, only to hinder Henry, surnamed Niger, from entering into Italy to repeat his rights. And all the world knows what Gregory VII. did to Henry IV. how he first caused Rodolph of Suevia, and afterward Egbert of Saxony to fight against him: and here their great quarrel was about the power of choosing the pope. Then they fell out about the collation of bishopricks; for which cause

Pope Gelasius XII. caused the archbishop of Mentz to rebel against Henry V., and there the Pope got the better of him, and by the aid of his Norman forces, which he had in Sicily, beat him into compliance. Then they fell out about some fees of the empire; and Innocent II. raised up Roger the Norman, against Lotharius XII., about the dutchy of Pouille: and St. Bernard being made umpire in the quarrel, the Pope got a share in Bavaria; for whoever lost, signior Papa, like the butler's box, was sure to get, by the advantage of his supreme conduct of religion, which, by this time, he got into his hands.

4. And now he improved it providently. For the same Innocent stirred up Guelphus, duke of Bavaria, against Conrad III. and thence sprang that dismal and bloody faction between the Guelphs and Ghibellines. But what should I reckon more? I must transcribe the Annals of Germany[k] to enumerate the hostilities of the Roman bishops against the emperors their lords, when they got the conduct and civil government of religious affairs into their power. Frederick Barbarossa, Henry VI., his brother Philip, Frederick II., Henry VII., Frederick of Austria, Lewis of Bavaria, Sigismund, Frederick III., felt the power of a temporal sword in a religious scabbard: and this was so certain, so constant, a mischief, that when the Pope had excommunicated eight emperors, and made the temporal sword cut off them, whom the spiritual sword had struck at, the emperors grew afraid. And Rodolph of Haspurg, when he was chosen emperor, durst not go into Italy, which he called the lion's den, because the entrance was fair, but few returning footsteps were espied. And it grew to be a proverb, saith Guicciardini[l]; "Proprium est ecclesiæ odisse Cæsares," "The church hates Cæsar;" and the event was that which Carion complained of, "Sceleribus pontificum, hoc imperium languefactum est;" "By the wickedness of the bishops of Rome, the Roman empire is fallen into decay."

5. These instances are more than enough to prove, that, if religion be governed by any hand with which the civil power hath nothing to do, it may come to pass, that the civil

[k] Vide Luitpran. lib. 6. cap. 6. Cuspinian, et Theodoric. à Niem in Vita Othon. III.
[l] Lib. 4. Chron.

power shall have no hands at all, or they shall be in bands. The consequence of these is this, that if the supreme civil power be sufficient to preserve itself, it can provide against the evil use of the spiritual sword, and consequently can conduct all religion, that can by evil men be abused, so as to keep it harmless. If by excommunications the bishop can disturb the civil interest, the civil power can hold his hands, that he shall not strike with it; or if he does, can take out the temporal sting, that it shall not venom and fester. If, by strange doctrines, the ecclesiastics can alien the hearts of subjects from their duty, the civil power can forbid those doctrines to be preached. If the canons of the church be seditious, or peevish, or apt for trouble, the civil power can command them to be rescinded, or may refuse to verify them and make them into laws. But that we may not trust our own reason only, I shall instance in the particulars of jurisdiction, and give evident probation of them from the authority of the best ages of the church.

6. And first in general, that kings or the supreme civil power is by God made an overseer, a ruler, a careful father, a governor, a protector, and provider for his church, is evident in the Scriptures, and the doctrine of the primitive ages of the church. "Nutritii et patres ecclesiæ," is their appellative, which we are taught from Scripture, "nursing fathers of the church."—"Pastores;" that is the word God used of Cyrus the Persian, "Cyrus my shepherd;" and when the Spirit of God, by David, calls to kings and princes of the earth to "kiss the Son lest he be angry;" it intends that as kings they should use their power and empire in those things, in which the Son will be worshipped by the children of men. For besides the natural and first end of government, which is temporal felicity, of which I have already spoken, there is also a supernatural, the eternal felicity of souls; and to this civil government does minister by the economy and design of God: and therefore it was well said of Ammianus [m], "Nihil aliud est imperium (ut sapientes definiunt) nisi cura salutis alienæ." It is true in both senses; "Empire is nothing else (as wise men define it) but a power of doing good by taking care for the salvation of others." To do them good here, and to cause them to do themselves good hereafter, is the end of

[m] Lib. 39.

all government. And the reason of it is well expressed by the emperor Theodosius Junior to St. Cyril [n]. "Quandoquidem ut vera religio justa actione perficitur, ita et respublica utriusque ope nixa florescit;" "As true religion is perfected by justice, so by religion and justice the republic does flourish;" and therefore he adds, "Deus optimus maximus pietatis et justæ actionis quoddam quasi vinculum nos esse voluerit," "The emperor is, by the divine appointment, the common band of justice and religion."

7. In the pursuance of this truth, Eusebius [o] tells, that Constantine the Great was wont to say to the bishops concerning himself, "Vos intra ecclesiam, ego extra ecclesiam à Deo episcopus constitutus sum;" "You within the church-walls, and I without, but both of us are appointed by God to be bishops or overseers of his saints and servants." And in the edict of Valentinian and Martian, which approves the acts of the council of Chalcedon, they are both called "inclyti pontifices," "illustrious bishops:"—and the emperor Leo III. in his epistle to Gregory the bishop of Rome, says of himself, Ὅτι βασιλεὺς καὶ ἱερεύς εἰμι, "I am both a king and a priest;" meaning in office, not in order—in government, not in ministries. These and such-like words are often used in the letters interchanged between the princes and the bishops in the ancient church, of which that of Leo the Roman bishop concerning the French capitulars is remarkable, writing to Lotharius: "De capitulis vel præceptis imperialibus vestris vestrorum pontificum prædecessorum irrefragabiliter custodiendis et conservandis, quantum valuimus et valemus in Christo propitio, et nunc et in ævum nos conservaturos modis omnibus profitemur." It was a direct oath of supremacy. "Concerning the capitulars or imperial precepts given by you and your predecessors who were bishops (viz. in their power and care over churches), we, through the assistance of Christ, promise as much as we are able to keep and to conserve them for ever." The limit of which power is well explicated by St. Austin [p] in these words; "Quando imperatores veritatem tenent, pro ipsa veritate contra errorem jubent; quod quisquis contempserit, ipse sibi judicium acquirit;" "When the emperors are Christians and right believers, they

[n] Apud Cyril. ep. 17. [o] De Vita Constant. lib. 4. cap. 24.
[p] Epist. 166.

make laws for the truth and against false doctrines; which laws whosoever shall despise, gets damnation to himself."

8. For if we consider that famous saying of Optatus, that "ecclesia est in republica, non respublica in ecclesia," "the church is in the commonwealth, not the commonwealth in the church,"—and the church is not a distinct state and order of men, but the commonwealth turned Christian, that is, better instructed, more holy, greater lovers of God, and taught in the knowledge of our Lord Jesus; it is not to be imagined that the emperors, or supreme governors, should have the less care and rule over it, by how much the more it belongs to God. This fancy first invaded the servants, when they turned Christians; they thought their masters had then less to do with them. The Apostle tells them, as in the case of Onesimus, that it is true, they ought to love them better, but the other were not the less to be obedient; only there was this gotten by it, that the servants were to do the same service for the Lord's sake, which before they did for the laws. But it is a strange folly to imagine, that because a man hath changed his opinion, he hath therefore changed his relation; and if it were so, he that is weary of his master, may soon change his service by going to another tutor. Religion establishes all natural and political relations, and changes none but the spiritual; and the same prince, that governs his people in the time of the plague, is to govern them, when they are cured; and the physician, that cured them, hath got no dominion over them,—only 'in regimine salutis,' he is principal, he is to govern their health. The cases as to this are parallel between the soul and the body. And therefore the emperor Constans [q] declared his power and his duty too, "de omnibus curam agere et intendere quæ respiciunt ad utilitatem Christianissimæ nostræ reipublicæ;" "to take care and to intend all things, which regard the advantage of our most Christian commonwealth:"—and Aimonius [r] tells of King Clovis, that, in one of the councils of Africa held at Clupea, he described his office and duty by these two summaries, "Publicis rebus consultores advocare, et ea, quæ Dei et sanctorum ejus sunt, disponere;" "To consult about public affairs of the commonwealth, and to dispose of those things, which belong to God and to his saints."

[q] In Concil. Roman. sub Martino I. [r] Lib. 4. cap. 41.

9. But the consideration of the particulars will be more useful in this inquiry, and first,

The supreme civil Power hath Authority to convene and to dissolve all Synods ecclesiastical.

10. This appears, 1. in that all the first councils of the church, after the emperors were Christian, were convocated by their authority. The council of Nice was called by Constantine, as is affirmed by Eusebius [s], Ruffinus [t], Sozomen [u], and Theodoret [x]: and when the Eusebians had persuaded Constantine to call a council at Tyre against Athanasius, the prince understanding their craft and violence, called them from Tyre to Constantinople [y]: and, by the same emperor, there was another council called at Arles. The council at Sardica [z], in Illyria, was convened by the authority of the emperors Constans and Constantius, as the fathers of that synod themselves wrote in their letters to the Egyptians and Africans: and Liberius [a] the bishop of Rome, with many other bishops of Italy, joined in petition to Constantius to convocate a council at Aquilea,—not to suffer them to do it, but that he would,—for to him, they knew, it only did belong. Theodosius the emperor called the second general council at Constantinople; as Socrates, Sozomen, and Nicephorus, relate: and the fathers of the council [b] write in their synodical constitutions, with this expression added, "Ea quæ acta sunt in sancto concilio, ad Tuam referimus pietatem,"—"Whatsoever was done in that synod, was wholly referred and submitted to the prince's piety."—The great Ephesine council, which was the third Œcumenical, was convened by Theodosius Junior [c], "ex proprio munere et officio, et ex animi sui deliberatione," so himself affirms,—"out of his own free choice, according to his office, and his duty." But his rescript, by which he convened the council, is a most admirable letter, and contains in it a full testimony of the truth of this whole rule, and does excellently enumerate and imply all the parts of the imperial jurisdiction in causes of religion. The sum of which is in the preface [d] of that rescript in these

[s] De Vita Constant. lib. 7. cap. 6.
[t] Lib. 1. Hist. cap. 1.
[u] Lib. 1. cap. 16.
[x] Lib. 2. Hist. cap. 5.
[y] Apud Athanas. Apol. 2.
[z] Apud Athanas. ibid.
[a] Theodor. lib. 2. cap. 16. in Dial. et Liberius in Epist. ad Hosium Cordub. apud Baron. tom. 3. A. D. 353. n. 19.
[b] Synod. Constit. Libell.
[c] Apud Cyril. Ep. 4.
[d] Epist. 17. apud Cyrillum.

words; "Our commonwealth depends upon piety [or religion] towards God, and between them both there is a great cognation and society; for they agree together, and grow by the increase of one another: so that true religion does shine by the study of justice, and the commonwealth is assisted by them both. We therefore, being placed in the kingdom by God, having received from him the care both of the religion and the prosperity of the subject, have hitherto endeavoured, by our care and by our forces, to keep in perpetual union: and for the safety of the republic we are intent to the profit of our subjects, and diligently watch for the conservation of true religion; but especially we strive that we may live holily, as becomes holy persons, taking care, as it befits us, even of both; for it is impossible we should take good care of one, if we neglect the other. But above the rest, we are careful, that the ecclesiastical state may remain firm, so as is fit to relate to God, and to be in our time,—and may have tranquillity by the consent of all men, and may be quiet by the peace of the ecclesiastic affairs; and that true religion may be kept irreprovable, and the lives of the inferior clergy and the bishops may be free from blame. This is the sum of his duty, and the limit of his power, and the intention of his government."—And to these purposes he called a council, threatening punishment to any prelate, who was called, if he neglected to come. If the emperor took more upon him than belonged to him, he was near a good tutor that could well have reproved him, the fathers of the Ephesine council; but if he took upon him but what was just, this testimony alone is sufficient in this whole question. But he ended not so, but shortly after called another council in the same place, against the will of Pope Leo, who yet was forced to send his deputies to be assistant at it. But that council had an ill end: and to repair the wounds made to truth by it Pope Leo petitioned[e] the emperor for another to be held in Italy. But the emperor was then not much in love with councils, having been so lately deceived by one; and therefore put it off, and died; and his successor Martianus called one at Nice, but, changing his mind, had it kept in Chalcedon. I shall proceed no further in particular, but account it

[e] In concil. Chalced. act. 1. Scribens ad Dioscorum Alex. Leo. Epist. 21. tom. 1. Epist. Rever. Patr.

sufficient what Cardinal Cusanus[f] acknowledges: "Sciendum est, quod, in universalibus octo conciliis, semper invenio imperatores et judices suos cum senatu primatum habuisse." For this is more than the mere power of calling them; for that he might do upon many accounts: but "the emperors and his judges and council always had the primacy in the eight general councils."

11. As the emperors did convene, so they did dismiss, the ecclesiastical conventions; as appears in the acts of the Ephesine council, where the fathers petition the emperor, that he would free them from that place, and give them leave to wait upon him to see his face, or, at least, he would dismiss them, and send them home to their own churches. The same petition was made by the bishops at Ariminum[g] to the emperor Constantius, and by the fathers at the council of Chalcedon[h] to Martianus. But these things did never please the Italians, after their patriarch began to set up for ecclesiastical monarchy: and they, as soon as they could, and even before their just opportunities, would be endeavouring to lessen the imperial power, and to take it into their own hands. But this is one of the things, that grew to an intolerable mischief; and was not only against the practice of the best ages, and against the just rights of emperors, but against the doctrine of the church.

12. For St. Jerome[i] reproving Ruffinus, who had quoted the authority of some synod, I know not where, St. Jerome confutes him, by this argument, "Quis imperator jusserit hanc synodum congregari?" "There was no such synod, for you cannot tell by what emperor's command it was convened." —To this purpose there was an excellent epistle written by certain bishops of Istria to Mauritius the emperor[k], enumerating from the records of the church the convention of ecclesiastical councils to have been wholly by the emperor's disposition; in which also they dogmatically affirm, "semper Deus præsentiâ Christianorum principum contentiones ecclesiasticas sedare dignatur," "God does always vouchsafe to appease church-quarrels by the presence of Christian emperors:" meaning, that, by their authority, the conciliary

[f] De Concord. lib. 3. cap. 16.
[g] Vide etiam Baron. tom. 5. A. D. 441. n. 103. Thod. lib. 2. cap. 19, 20.
[h] Fine 6. act. [i] Apol. ad. Ruffin. lib. 2.
[k] Apud Baron. A. D. 590. tom. 8. n. 40.

definitions passed into laws. But who please to see more particulars relating to this inquiry, may be filled with the sight of them in the whole third book of William Ranchin's Review of the Council of Trent.

The supreme civil Power hath a Power of external Judgment in Causes of Faith.

13. This relies upon the former reasons, that since propositions of religion and doctrines of theology have so great influence upon the lives of men, upon peace and justice, upon duty and obedience, it is necessary that the supreme civil power should determine, what doctrines are to be taught the people, and what to be forbidden. The princes are to tell what religions are to be permitted and what not: and we find a law of Justinian[1] forbidding anathematisms to be pronounced against the Jewish Hellenists; for the emperors did not only permit false religions by impunity, but made laws even for the ordering their assemblies, making ecclesiastical laws for enemies of true religion: so necessary it is for princes to govern all religion and pretences of religion within their nations. This we find in the civil law, in the title of the code 'de Judæis,' in many instances. A law was made by Justinian also, that none should be admitted into the Jewish synagogues, that denied angels, or the resurrection, or the day of judgment. Thus the civil power took away the churches from the Maximianistæ, because they were an under sect of the Donatists condemned by their superiors. But then that the Christian princes did this, and might do this and much more in the articles of true religion, is evident by many instances and great reason.

14. There is a title in the first book of the code, 'Ne sacrosanctum baptisma iteretur,' against the Anabaptists. Charles the Great made a decree[m] against the worshipping of images, and gave sentence against the second Nicene council in that particular: and Sozomen reports, that Constantine cut off unprofitable questions, to prevent schisms in the church; which example our kings of England have imitated by forbidding public preachers or divines in schools to meddle in the curious questions of predestination. Thus the public laws of a nation often declare, who are, and who are

[1] Novel. 146. [m] Vide l. Nemo. ff. de Summa Trinitate.

not, heretics: and, by an act of parliament in England, they only are judged heretics, who for such were condemned by the four general councils. Upon this account many princes have forbidden public disputations in matters of religion: to this purpose there was a law of Leo [n] and Anthemius [o], and Andronicus the emperor hearing some bishops disputing with some subtilty upon those words, "My Father is greater than I," threatened to throw them into the river, if they would not leave such dangerous disputations. Heraclius the emperor forbade any of those nice words concerning Christ to be used: some did use to say, that in Christ there was a single energy, some said there was a double; but the emperor determined the question well, and bade them hold their peace and speak of neither: for, as Sisinnius said to Theodosius, "Disputando de sacris accendi tantùm contentionem," "There is nothing got by disputations but strife and contention:" and therefore princes are the best moderators of churchmen's quarrels, because princes are bound to keep the peace. And consonantly to this Isidore [p] spake well; "Sanè per regnum terrenum cœleste regnum proficit, ut qui intra ecclesiam positi contra fidem et disciplinam ecclesiæ agunt, rigore principum conterantur, ipsamque disciplinam, quam ecclesiæ humilitas exercere non prævalet, cervicibus superborum potestas principalis imponat." The civil power advances the interests of the heavenly kingdom by punishing them, who sin against the faith and discipline of the church; if they be 'intra ecclesiam,' 'within the church,' their faith and manners both are subject to the secular judgment.

15. But not only so, but they are to take care to secure and promote the interest of truth: for though, as St. Paul says, "doubtful disputations do engender strife," yet we must "contend earnestly for the faith;" with zeal, but yet with meekness too: and therefore, that matters of faith and doctrines of good life be established, it is part of the prince's duty to take care [q]. According to which we find that when a

[n] Nicet. Choniat. [o] L. qui in Mon. C. de Episc. et Clericis.

[p] 23. q. 5. cap. Principes.

[q] Imperator, ut communis ἐπιστημονάρχης existens et nominatus, synodalibus præest sententiis et robur tribuit, ecclesiasticos ordines componit, et legem dat vitæ politiæque eorum qui altari serviunt. Et rursus ut uno verbo dicam, solo sacrificandi excepto ministerio, reliqua pontificia/ia privilegia imperator repræsentat. Demetr. Chomaten. in Resp. Orien.—Euagrius Leonis Imp. Concilii Chalced. approbationem vocat decisionem de fide, lib. 3. cap. 4. et cap. 5. videat lector totum hujus rei processum ex lib. 1. Heraclii, incip. Cum sanctus, inter constit. Imperial.—Cum Sanctus

rumour was spread that brought Pope Pelagius into suspicion of heresy, King Childebert sent Ruffinus to require him either to recite and profess the tome of St. Leo, in which there was a good confession of faith, or else that he should do the same thing in his own words. Pope Pelagius[r] sent this answer: "Satagendum est ut pro auferendo suspicionis scandalo obsequium confessionis nostræ regibus ministremus, quibus etiam nos subditos esse Sacræ Scripturæ præcipiunt;" "We must take care, that, for the avoiding suspicion, we exhibit to kings the duty of our confession: for to them the Holy Scriptures did command even us to be obedient." And not only for the faith of bishops and even of popes, but for their manners also, kings were to take care, and did it accordingly. Justinian[s] made laws, that bishops should not play at dice, nor be present at public spectacles; and he said of himself, "maximam habere se solicitudinem circa vera Dei dogmata, etcirca sacerdotum honestatem;" "that his greatest care was about the true doctrine of God, and the good lives of bishops."

16. I do not intend by this, that whatsoever article is by princes allowed, is therefore to be accounted a part of true religion; for that is more than we can justify of a definition made by a synod of bishops: but that they are to take care, that true doctrine be established; that they that are bound to do so, must be supposed competent judges what is true doctrine, else they guide their subjects, and somebody else rules them: and then who is the prince? By what means and in what manner the civil power is to do this, I am to set down in the next rule; but here the question is of the power, not of the manner of exercising it: and the answer is, that this power of judging for themselves and for their people is part of their right; that no article of religion can become a law, unless it be decreed by God, or by the prince; that the bishop's declaration is a good indication of the law of God, but that the prince's sanction makes it also become a law of the commonwealth: that the prince may be deceived in an article of religion, is as true as that he may be deceived in a question of right, and a point of law; yet his determination

(inquit) Sophronius, tunc summo sacerdotio fungens Hierosolymis, subjectis sibi sacerdotibus convocatis synodicè demonstrasset, eos qui unam in duabus Christi naturis voluntatem atque energiam affirmarent, palam unam quoque naturam statuere, eique Johannes Papa Romanus assensus esset, imperator edictum proponit, neque singularem, neque duplicem in Christo energiam esse asserendam.

[r] 25 q. 1. cap. Satagendum. [s] Novel. 123. cap. 10.

hath authority, even when a better proposition wants it: that error must serve the ends of peace, till, by the doctrines of the wiser ecclesiastics, the prince being better informed, can, by truth, serve it better.

RULE VIII.

The supreme civil Power is to govern in Causes ecclesiastical by the Means and Measures of Christ's Institution, that is, by the Assistance and Ministries of ecclesiastical Persons.

1. KINGS are supreme judges of the law; for "cujus est loqui, ejus est interpretari;" "he that speaks, best knows his meaning:" and the lawgiver is certainly his own best interpreter. But in cases, where there is doubt, the supreme civil power speaks by them, whose profession it is to understand the laws. And so it is in religion. The king is to study the law of God; "nec hoc illi dictum ut totus ab alieno ore pendeat, ipseque à se nihil dijudicet," said that learned prelate of Winchester[s]; "not that he should wholly depend in religion upon the sentences of others, but be able of himself to judge." But where there is difficulty, and that it be fit that the difficulty be resolved, there the supreme civil power is to receive the aid of the ecclesiastic, from whose mouth 'the people are to require the law,' and whose lips, by their office and designation, are 'to preserve knowledge.' The doctors of the Jews tell, that when Jephthah had made a rash vow, he might have been released if he had pleased: for if a horse had first met him, he had not been bound to have offered it to God; but it must have been sold, and a sacrifice bought with the price; and much more must a man or a woman have been redeemed. But because Jephthah was a prince in Israel, he would not go to Phinehas the high-priest to have had his vow interpreted, commuted, or released. Neither would Phinehas go to him, because he was not to offer help, till it was implored. Phinehas did not go to Jephthah, for he had no need, he had no business: and Jephthah would not go to Phinehas, because he was the better man. In the meantime the virgin died, or, as some

[s] Tortur. Tort.

say, was killed by her father: but both prince and priest were punished, Jephthah with a palsy, and Phinehas was deprived of the Spirit of God. For when the prince needs the priest, he must consult him; and whether he consults him or no, the priest must take care that no evil be done by the prince, or suffered by him for want of counsel.

2. But the prince's office of providing for religion, and his manner of doing it in cases of difficulty, are rarely well discoursed of by Theodosius the younger, in a letter of his to St. Cyril, of which I have formerly mentioned some portions: —"Pietatis doctrinam in sacra synodo in utramque partem ventilatam eatenus obtinere volumus, quatenus veritati et rationi consentaneum esse judicabitur;" "The doctrine of godliness shall be discussed in the sacred council, and it shall prevail or pass into a law so far, as shall be judged agreeable to truth and reason:"—where the emperor gives the examination of it to the bishop, to whose office and calling it does belong: but the judgment of it and the sanction are the right of the emperor, who would see the decrees *should* be established, if they were true and reasonable. The judgment, I say, was the emperor's, but in his judgment he would be advised, taught, and established, by his bishops. "Sed nec eam doctrinam indiscussam patiemur; cui dijudicandæ eos præfici oportet qui sacerdotiis ubivis gentium præsident, per quos et nos quoque in veritatis sententia stabilimur, et magis magisque identidem stabiliemur;" "That doctrine that is in question, we will not suffer to escape examination; but those shall be presidents of the judgment, who, in every nation, are the appointed bishops, by whom we also ourselves are confirmed in the true religion, and hope every day to be more and more established.

3. When the supreme power hath called in the aid and office of the ecclesiastic, good princes use to verify their acts accordingly, to establish their sentences, to punish the convict, to exterminate heretics and suppress their doctrines. Thus Honorius and Arcadius the emperors, by an edict, repressed Pelagius and Celestine, whom the bishops had condemned; Constantine, after the sentence of the Nicene fathers against Arius, banished him[t]. Theodosius the elder, having diligently conferred with the orthodox bishops, and

[t] Sozom. lib. 7. cap. 12.

heard patiently what the others could say,—by a law forbade them to have public assemblies, who denied the consubstantiality of the Son with the Father. "Per consilium sacerdotum et optimatum ordinavimus, constituimus, et diximus;" it was the style of King Pepin in the council of Soissons. And of this nature the instances are very numerous. For "semper studium fuit orthodoxis et piis imperatoribus pro tempore exortas hæreses per congregationem religiosissimorum archiepiscoporum amputare, et rectâ fide sincerè prædicata in pace sanctam Dei ecclesiam custodire," said Theodorus Silentiarius[u]: "All the pious and orthodox emperors did use this instrument and manner of proceeding, for the cutting off heresies, and the sincere publication of the faith, and the conservation of the church in peace."

4. But that this manner of empire may not prejudice the right of the empire, it is to be observed, that, in these things, the emperors used their own liberty, which proved plainly they used nothing but their own right. For sometimes they gave toleration to differing sects, sometimes they gave none; sometimes they were governed by zeal, and sometimes by gentle counsels; only they would be careful, that the disputes should not break the public peace: but for their punishing recusants and schismatics they used their liberty; so we find in the acts of the great Ephesine council, that Theodosius II. resolved of one, but not upon the other. "At verò sive illi veniam impetraturi sint, qui à patribus victi discedent, sive non, nos sanè civitates simul et ecclesias conturbari nequaquam sinemus;" "Whether those who are convict of heresy by the fathers shall be pardoned yea or no, yet we will be sure not to suffer the republic or the churches to be disturbed."

5. This I observe now in opposition to those bold pretences of the court of Rome, and of the Presbytery, that esteem princes bound to execute their decrees, and account them but great ministers and servants of their sentences. Now if this be true, then princes must confirm all that the clergy decrees: if all, then the supreme prince hath less than the meanest of the people, not so much as a judgment of discretion; or if he have, it is worse; for he must not use his discretion for the doing of his duty, but must, by an implicit

[u] In 5. Synod. Constant.

faith and a blind brutish obedience, obey his masters of the consistory or assembly. But if he be not bound to confirm all, then I suppose he may choose which he will, and which he will not: and if so, it is well enough; for then the supreme judgment and the last resort are to the prince, not to his clerks. And that princes are but executioners of the clergy's sentences is so far from being true, that we find Theodosius [x] refusing to confirm the acts of the great Ephesine council: for having been informed, though falsely, that affairs were carried ill, he commanded the bishops to resume the question of the Nestorians: for their acts of condemnation against them he made null, and commanded them to judge it over again, and that till they had done so, they should not stir to their bishopricks. The ministry was the bishops' all the way, but the external judgment and the legislative was the prince's. So Charles the Great reformed the church [y]; "Episcopos congregavi," &c. "I convocated the bishops to counsel me how God's laws and Christian religion should be recovered. Therefore by the counsel of my religious prelates and my nobles, we have appointed bishops in every city, and Boniface their archbishop, and appoint that a synod shall be held every year, that, in our presence, the canonical decrees and the rights of the church may be restored, and Christian religion may be reformed." But because this must be evident as a consequent of all the former discourses upon this question; it will be sufficient now to sum it up with the testimony of St. Austin [z] writing to Emeritus the Donatist: "Nam et terrenæ potestates, cum schismaticos persequuntur, eâ regulâ se defendunt, quia dicit apostolus, Qui potestati resistit, Dei ordinationi resistit—non enim frustra gladium portat;" "When the civil power punishes schismatics, they have a warrant from an apostolical rule, which says, 'He that resists, resists the ordinance of God: for they bear not the sword in vain.'" It is not therefore by a commission or a command from the church that they punish schismatics, but "constituunt adversus vos pro sua solicitudine ac potestate quod volunt;" "they decree what they please against them according to their own care and their own power."

6. So that when it is said, that princes are to govern their

[x] Apud acta Concil. Ephes. in liter. Theod. ad Synod.
[y] Apud Suriam Die 5. Jan. [z] Epist. 164.

churches by the consent and advice of their bishops, it is meant not 'de jure stricto,' but 'de bono et laudabili:' it is fit that they do so, it is the way of Christ's ordinary appointment: "He that heareth you, heareth me:" and to them a command is given, 'to feed all the flock of Christ.' In pursuance of which, it was a famous rescript of Valentinian I. cited by St. Ambrose [a]; "In causa fidei vel ecclesiastici alicujus ordinis eum judicare debere, qui nec munere impar sit, nec jure dissimilis." These are the words of the rescript: that is, he would that 'bishops should judge of bishops; and that in causes of faith or the church their ministry should be used, whose persons, by reason of the like employment, were most competent to be put in delegation.' But, to the same purpose, more of these favourable edicts [b] were made in behalf of the church by Theodosius and Valentinian II., by Arcadius, Honorius, and Justinian: and indeed, besides that it is reasonable in all cases, it is necessary in very many: because bishops and priests are the most knowing in spiritual affairs, and therefore most fit to be counsellors to the prince, who oftentimes hath no great skill, though he have supreme authority. I remember that when Gellius the prætor was sent proconsul into Greece [c], he observed that the scholars at Athens did perpetually wrangle and erect schools against schools, and divided their philosophy into sects; and therefore sending for them, persuaded them to live quietly and peaceably, and to put their questions to reference or umpirage, and in it offered his own assistance: but the scholars laughed at his confident offer to be a moderator in things he understood no more than his spurs did. He might have made them keep the peace, and at the same time make use of their wit and his own authority. And although there may happen a case, in which princes may, and a case in which they must, refuse to confirm the synodical decrees, sentences, and judgments, of ecclesiastics; yet, unless they do with great reason

[a] Lib. 5. Epist. 32.

[b] Lib. 1. Cod. Theod. de Relig. Novel. Valen. de Episc. Jud. lib. Graviter, ibid. novel. 89.

[c] Bp. Taylor alludes to the following passage: "Me Athenis audire ex Phædro meo memini, Gellium, quum pro consule ex prætura in Græciam venisset, Athenis philosophos, qui tum erant, in locum unum convocasse, ipsisque magnopere auctorem fuisse, ut aliquando controversiarum aliquem facerent modum: quod si essent eo animo, ut nollent ætatem in litibus conterere, posse rem convenire: et simul operam suam illis esse pollicitum, si posset inter eos aliquid convenire." De Legibus, lib. 1. cap. 20. n. 53. Wagner, p. 40. (J. R. P.)

and upon competent necessity, they cannot do it without great scandal, and sometimes great impiety. But of this I shall discourse in the next chapter. For the present I was to assert the rights of princes, and to establish the proper foundation of human laws; that the conscience may build upon a rock, and not trust to that, which stands upon sand, and trusts to nothing.

7. I have been the larger upon these things, because the adversaries are great and many, and the pretences and the challenges high, and their opposition great and intricate, and their affrightments large; for they use something to persuade and something to scare the conscience. Such is that bold saying of Pope Leo X.[d]; "A jure tam divino quam humano laicis potestas nulla in ecclesiasticos personas attributa est;" "Both by divine and human laws ecclesiastics are free from all secular power."—But fierce and terrible are the words of the Extravagant 'unam sanctam:' "Porro subesse Romano pontifici omnem humanam creaturam declaramus, dicimus, definimus et pronunciamus omnino esse de necessitate salutis;" "That every man should be subject to the bishop of Rome, we define, we say, we declare and pronounce to be altogether necessary to salvation." This indeed is high; but how vain withal and trifling and unreasonable I have sufficiently evidenced. So that now the conscience may firmly rely upon the foundation of human laws, and by them she is to be conducted not only in civil affairs, but in ecclesiastical, that is, in religion as well as justice: and there is nothing that can prejudice their authority, unless they decree against a law of God; of which because ecclesiastical persons are the preachers and expositors by ordinary divine appointment, princes must hear bishops, and bishops must obey princes: or because 'audire et obedire,' 'to hear and to obey,' have great affinity, I choose to end this with the expression of Abbot Berengar[e], almost eleven hundred years ago; "Sciendum est quod nec Catholicæ fidei nec Christianæ contrarium est legi, si, ad honorem regni et sacerdotii, rex pontifici et pontifex obediat regi;" "It is neither against the Catholic faith nor the Christian law, that the prince obey the bishop, and the bishop obey the prince:" the first is an obedience of piety, and the latter of duty; the one is justice, and the other is religion.

[d] Concil. Later. sub Leon. X. [e] Lib. de Myster. Sign. in Biblioth. Sanct. Patr.

CHAP. III.

OF THE POWER OF THE CHURCH IN CANONS AND CENSURES, WITH THEIR OBLIGATIONS AND POWERS OVER THE CONSCIENCE.

RULE I.

The whole Power, which Christ hath left in ordinary to his Church, is merely spiritual.

1. THAT there are great things spoken by the doctors of the primitive church, of the ecclesiastical or spiritual power, is every where evident, and that there are many expressions which prefer it above the secular; all which I shall represent instead of others in the words of St. Chrysostom[a], because of them all he was the most eloquent, and likeliest in the fairest imagery to describe the powers of his order:—"Others are the limits of the kingdom, others, of the priesthood; for this is greater than that: and you must not estimate it by the purple and gold. The king hath allotted to him the things of this world to be administered; but the right of priesthood descendeth from above: 'Whatsoever ye shall bind on earth, shall be bound in heaven.' To the king is committed what is here below; to me, that is, to the bishop, things celestial. The bodies are intrusted to princes, but the souls to bishops. The king remits the guilt of bodies, but the bishop the guilt of sins. The prince compels, the bishop exhorts. He governs by necessity, but we by counsel; he hath sensible armour, but we spiritual weapons; he wageth war against the barbarians, but we against the devil. Here then is a greater principality. For which cause the king submits himself to the priest's hand, and every where in the Old Testament the priests did anoint kings."—Where, by the way, though it be not exactly true that the kings of Israel and Judah were always anointed by priests[b], but sometimes by prophets who were no priests, as in the case of Jehu; —yet supposing all that, the discourse is true enough, and the spiritual power in relation to a nobler object is in that

[a] Hom. lib. 4. ex verb. Isaiæ. [b] 2 Kings, ix. 4.

regard better than the temporal; and therefore, is in spiritual account in order to a spiritual end above that, which serves the less excellent. But the effect of this discourse is, that kings are subject to bishops, just as the princes of Israel were to those that anointed them; that is, they came under their hands for unction, and consecration, and blessing, and counsel, and the rites of sacrifice. And all this is very true; and this is all that was or could be intended by St. Chrysostom, or those other eminent lights of the primitive church, who set their order upon a candlestick, and made it illustrious by the advantage of comparison. The advantages are wholly spiritual, the excellences are spiritual, the operations are spiritual, and the effects are spiritual; the office is spiritual, and so is all the power. But because the persons of the men in whom this spiritual power is subjected, are temporal as well as princes, and so are all their civil actions, therefore whatever eminence they have for their spiritual employment, it gives them no temporal advantage; that comes in upon another stock: but for the spiritual, it is as much as it is pretended; but then it is no more.

2. For it is purely spiritual. Where any thing of temporal is mingled with it, it is not greater in that, but subject to the temporal power. Without this, there could never be peace: and where the jurisdiction of two courts does interfere, there are perpetual wranglings. But God, having ordained two powers, hath made them both best; and yet so that both of them are inferior: but because it is in differing powers, they both rule in peace, and both obey with pleasure. How the ecclesiastic state is subject to the civil, I have largely accounted: now I am to describe the eminences, powers, advantages, and legislations, of the spiritual: concerning which we shall have the best light, if we rightly understand the nature and quality of the power.

3. "As my Father sent me, so send I you," said Christ to his apostles. Now it is plain how the Father was pleased to send his Son; with humility and miracles, with a low fortune and a great design, with poverty and power, with fulness of the Spirit and excellency of wisdom. That was the manner. The end was, the redemption of man; the conquering of the devil; the preaching of the gospel; the foundation of the church; the instruction of faith; the baptizing converts;

the reformation of manners; the extirpation of sin. This was the entire end, and that was the just manner in which Christ was sent into the world: and since his apostles and their successors were to pursue the same ends and no other, they were furnished with the same power: and Christ gave them the Holy Ghost, and gave them commandment and power to teach all nations, to baptize them, to bind and to loose, to minister his body and his blood, to exhort and to reprove, to comfort and to cure, to make spiritual separations of the vile from the precious. This is the sum of all the commissions they had from Christ.

4. This power, and these commissions, were wholly ministerial without domination, without proper jurisdiction, that is, without coaction; it being wholly against the design of the religion, that it should be forced; and it being far removed from persons so disposed, so employed, so instructed, to do it. And therefore one of the requisites of a bishop is μὴ εἶναι πλῆκτικὸν, "he must be no striker:" he had no arms put into his hand to that purpose; the ecclesiastic state being furnished with authority, but no power, that is, "auctoritate suadendi, magis quam jubendi potestate" (that I may use the expression in Tacitus[c]); 'an authority to persuade and to rebuke, but no power to command,' as the word is used in the sense of secular dominion.

5. Concerning which, that the thing be rightly understood, we must first truly understand the word. Accursius[d] defines jurisdiction to be "potestatem de publico introductam cum necessitate juris dicendi et æquitatis statuendæ;" "a public power of doing right and equity."—It is "potestas ad jus dicendum," so Muscornus Cyprius; "a power of giving sentence in causes between party and party."—But we shall best understand the meaning of 'jurisdictio' by that place of Cicero[e]: "Quid ego istius in jure dicundo libidinem demonstrem? Quis vestrum non ex urbana jurisdictione cognovit? Quis unquam, isto prætore, Chelidone invitâ, lege agere potuit?—Judices citari jubet: jubet citari Heraclium: citatur reus Sopatrus: Sthenium citari jubet: atque, ut aliquando de rebus ab isto cognitis, judicatisque, et de judiciis datis desis-

[c] De Mor. Germ. cap. 11. Oberlin. Lond. edit. vol. 2. p. 362.
[d] In lib. 1. in Verbo Potest. FF. de Jurisdict.
[e] Orat. in Verrem ii. cap. 16. et 48. Priestley's Cicero, vol. 1. pag. 204. 233.

mus dicere," &c. From which words it is plain, that jurisdiction is a power of magistracy to summon the parties, to hear their cause, and to give sentence. And therefore in Suetonius we often find these expressions, "Imperatorem jus dixisse, cognovisse, judicasse," "The emperor took cognizance, did judge, did give sentence," that is, did exercise jurisdiction. Empire is always included under jurisdiction; and it is divided into a cognition of capital and pecuniary causes, as appears plainly in the title of the code 'de Jurisdictione,' which handles both causes; and Asconius Pædianus, in his argument upon the fourth action against Verres, proves expressly, that capital actions are part of jurisdiction. To which purpose is that of Suetonius[f] in the life of Augustus; "Dixit autem jus non diligentiâ modo summa sed et lenitate, siquidem manifesti parricidii reum, ne culeo insueretur, quod non nisi confessi afficiuntur hâc pœna," &c. But of this there is no question. Now of jurisdiction thus understood, it is evident that the ecclesiastic state hath no right derived to them from Christ,—that is, no power to punish any man corporally, or to compel him to answer in criminal causes; they have no power of the sword, no restraint upon the body: but having care of souls, which cannot be governed by force, they are to govern as souls can be governed, that is, by arguments and reason, by fear and hope, by preaching of rewards and punishments, and all the ways of the noblest government, that is, by wisdom and by the ways of God.

6. This appears in the Apostle's description of their own office and power. "What is Paul[g], and what is Apollos, but ministers by whom ye believed?" "ministers of Christ," "stewards of the mysteries of Christ:" "To us is committed the word of reconciliation[h];" "We are ambassadors for Christ[i];" οὐ κυριεύοντες, we are "not lords over the flock[k];" but "as though God did beseech you by us, we pray you, in Christ's stead, to be reconciled to God." Thus Christ set them over the household[l], not to strike the servants, but "to give them their meat in due season;" that is, as Optatus[m] expresses it, to minister the food of God's word and sacra-

[f] Cap. 33. B. Crusius, vol. 1. pag. 259.
[g] 1 Cor. iii.
[h] 2 Cor. v. 18.
[i] 2 Cor. v. 20.
[k] 1 Pet. v. 3.
[l] Luke, xii.
[m] Lib. 5. contra Parmen.

ments to the servants of the family:—"Nolite vobis majestatis dominum vindicare; nam si ita est, vindicent sibi et ministri, qui mensæ dominicæ famulantur, ut pro humanitate exhibita ab invitatis gratulatio eis referatur—Est ergo in universis servientibus non dominium sed ministerium:" "Therefore esteem not yourselves to have any thing but the ministry and service, nothing of dominion."—And indeed we need challenge no more: it is honour enough to serve such a prince, to wait at such a table, to be stewards of such a family, to minister such food. This service is perfect freedom; and that is more than can be said of the greatest temporal dominion in the world. "Principes ecclesiæ fiunt ut serviant minoribus suis, et ministrent eis quæcunque acceperunt à Christo[n]." The same with the words of Christ, "He that is greatest amongst you, let him be your minister." "For the honours[o] in Christian religion, at the first look like dignities; but indeed they are not divers honours, but divers services: as it seems to be an honour to the eye, that it enlightens the whole body, but it is not its honour, but its ministry; so it is amongst the saints; it is not his honour, but his act. And so is the apostleship thought to be a great dignity, but it is not so; but it is his ministry. For so St. Paul[p] says, 'If I preach the gospel, it is no glory to me; for necessity is laid upon me, and woe is unto me if I do not preach the gospel; for if I do it willingly, I have a reward; but if unwillingly, there is nothing but a stewardship intrusted to me.'" The consequent of this discourse is this, in the words of the same father, "Quicunque desiderat primatum in terra, inveniet confusionem in cœlo," "Whosoever desires primacy" (meaning amongst the ecclesiastics, and by virtue of their order and office) "upon earth, shall find confusion in heaven."

7. But this is most expressly and clearly taught by the fathers of the church. So St. Chrysostom Nazianzen[q]; "He that is set over others (speaking of bishops), laying behind him every sin, must proceed in godliness; so that, by the example of his spiritual growth, he may draw others unto virtue, especially by that form of humility, which was delivered to us by the Lord; 'non enim oportet vi vel necessitate constringere, sed ratione et vitæ exemplis suadere,'

[n] Homil. 35. in Matt. apud Chrysost.
[o] Ibid.
[p] 1 Cor. ix. 16, 17.
[q] In Apologet.

'for no man is to be constrained by force or by necessity, but persuaded by reason and good examples.'"—And thus St. Jerome[r] distinguishes the ecclesiastical power from the regal: "Ille nolentibus præest, hic volentibus: ille terrore subjicit, hic servituti donatur: ille corpora custodit ad mortem, hic animas servat ad vitam:" "The king governs whether men will or no: the bishop none but the willing. He subdues them by terror; but the bishop is but the servant of the people's souls. The king keeps bodies reserved for death; but the bishop takes care of souls that they may live eternally."—Upon this account St. Chrysostom[s] considers the great difficulty there is in the discharge of the episcopal office, and affirms it to be more troublesome than that of kings; as much as the rage of the sea in a tempest, is greater than the curlings of a troubled river:—and he gives this reason for it; "Quoniam illic plures sunt qui adjuvant, eo quod legibus ac mandatis omnia peraguntur: hic verò nihil tale, neque enim licet ex auctoritate præcipere," "Because there are more helpers in the secular government; for all things are transacted by laws, and by commandments: but here (meaning, in the ecclesiastic state)—there is no such thing; for it is lawful, but we have no authority to command any thing."—For[t] "in potestate subjectorum est obedire vel non." They are not domestics, they are not properly subjects, but "obedientiam habentes in sua ipsorum potestate," "they have their obedience in their own power[u]:" they may if they will, and they shall have a good reward; but if they will not, they may choose. For with this power, and upon these terms "the Holy Ghost hath made them overseers to feed," not to rule, "the church of God," that is, not to rule by empire, but by persuasion. And this is intimated by the Epistle[x] to the Hebrews; "Obey them that are set over you, and submit yourselves; for they watch for your souls: that they may do it with joy, not with grief; for that is unprofitable for you:"—that is, submit yourselves to your spiritual rulers, cheerfully and willingly: if you do not, they can have no comfort in their ministry; it will grieve them to find you refractory, and you will be the losers by it, for their grief will do you no profit.—Now if these rulers had

[r] In Epitaph. Nepot. Ep. 3. [s] Homil. 3. in Acta Apost.
[t] Homil. 3. in Tit. [u] Hom. 3. in Acta. [x] Heb. xiii. 17.

a power of coercion, he could quickly make them willing, and the στεναγμὸς, 'the anguish' would fall upon the disobedient.—The same precept is in the Epistle to the Thessalonians[y], where the words do themselves expound the nature of the government; "We beseech you, brethren, to know them which labour amongst you, and are over you in the Lord, and admonish you, and to esteem them very highly in love for their works' sake." And immediately after[z], he calls them 'in partem solicitudinis,' 'into a participation of this rule;' Νουθετεῖτε ἀτάκτους, "We beseech you, brethren, to admonish," or to warn, to reprove, "them that are unruly:"—that is, you must help us in our government: we are over you to admonish you, but you must admonish one another: that will help our work forward when you are willing. But "they which are over you," must be highly esteemed, not for their dignity, but for their works' sake, not in fear, but "in love;" for they are over you not by empire, but by discourses,—not by laws, but by exhortation. And certainly this is the best government in the world; that the people of God "sit populus voluntarius," should serve God with reason and choice, with love and pleasure, and eternity of satisfaction. And this is observed also by St. Chrysostom: "The princes of this world (saith he) are so much inferior to this spiritual power, by how much it is better to rule over the wills of men, than over their bodies:" and that is the state of ecclesiastical government, concerning which who please to see much more, may, with pleasure, read it in St. Chrysostom, in his first homily upon the Epistle to Titus, and the eleventh homily upon the Epistle to the Ephesians, and in his second book 'of Priesthood.'

8. Now against this it will not be sufficient to oppose any precedents of government under the Old Testament. He there that did not obey the word of the high-priest, was to die the death[a]; for they had ἀναγκαστικὴν δικαιοκρισίαν, a true, proper, formal jurisdiction given them by God: and when Moses sat in judgment, συνήδρευον ἱερεῖς, saith Philo, "the priests were his assessors;"—and "Judæi sacerdotii honos firmamentum potentiæ erat;" "The honour of the Jewish priesthood was a great establishment to the power of

[y] 1 Thess. v. 12. [z] Ver. 14.
[a] Deut. xvii. 12.

the nation," saith Tacitus [b]. For the priests were ἐπίσκοποι, 'bishops,' and judges of controversies, and by the law appointed to inflict punishment upon criminals; said Josephus [c]. But, in the gospel, there was no such thing. The Jewish excommunications were acts of power and a mixed empire; ours are securities to the sound part, and cautions against offenders. Their preachings were decrees sometimes; ours can be but exhortations and arguments to persuade and invite consent.

9. But neither can it be denied but that the apostles did, sometimes, actions of a delegate jurisdiction. Thus St. Peter gave sentence of death against Ananias and Sapphira; St. Paul inflicted blindness upon Elymas the sorcerer, and delivered Hymenæus and Alexander and the incestuous Corinthian to be buffeted by Satan; and St. John threatened to do the like to Diotrephes. That this was extraordinary, appears by the manners of animadversion which were by miracle and immediate divine judgment; for those which were delivered to Satan, were given up to be corporally tormented by some grievous sickness or violence of an evil spirit, as St. Chrysostom [d], St. Ambrose [e], St. Jerome, and divers others of the [f] fathers do affirm. But therefore this was an act of divine jurisdiction, not of apostolical: it was a miraculous verification of the divine mission, seldom used, not by ordinary emission of power, but by an extraordinary spirit: for so St. Paul [g] threatened some criminals in the church of Corinth, that if he did come, he would not spare them: but it was because they made it necessary by their undervaluing of his person and ministry: 'Since ye do so, since ye do look for a sign and proof of Christ speaking in me, you shall have it.' It is not St. Paul's ordinary power, nor his own extraordinary, but δοκιμὴ Χριστοῦ, 'an experiment of Christ's power,' who was pleased to minister it by St. Paul, as well as by any other apostle: something like those words of our blessed Saviour, "An evil and adulterous generation seeketh after a sign; and the sign of the prophet Jonas shall be given them." But then there was great necessity; and some prodigious examples were to be made to produce the fear of God and

[b] Histor. v. 8. Oberlin. Lond. ed. vol. 2. p. 331.
[c] Contr. Apion. lib. 11. cap. 6.
[d] 1 Corinth. homil. 15.
[e] De Pœnit. lib. 1. cap. 17.
[f] S. August. contr. Epist. Parmen. lib. 3. cap. 1.
[g] 2 Cor. xiii. 2.

the reverence of religion, that the meanness and poverty of the ministers might not expose the institution to contempt: and because the religion was destitute of all temporal coercion, and the civil power put on armour, not for it, but against it, therefore God took the matter into his own hand, and by judgments from heaven verified the preachings apostolical. Thus when the Corinthians [h] did use the Lord's supper unworthily, God punished them with sickness and with death, as the Apostle himself tells them: for to denounce them after, and to pronounce them before, were equal actions of ministry, but equally no parts of jurisdiction. This way continued in the church, though in very infrequent examples, till the emperors became Christians, and by laws and temporal coercions came to second the word of ecclesiastical ministry. For St. Cyprian [i] tells of some persons, who being afflicted with evil spirits, were cured at their baptism, who afterward, upon their apostasy from the faith, were afflicted again, and again fell into the power of the devil: "recedente siquidem disciplina recessit et gratia;" when they forsook Christ, himself took the matter into his own hand, and was not wanting, by an act of his own jurisdiction, to declare that he was their Lord, and would be honoured by them or upon them.

10. And this was "the rod," that St. Paul [k] threatened to the schismatical Corinthians; not any emanation of the ordinary power of ministry, but a miraculous consignation of it: for these things, as St. Chrysostom [l] observes, St. Paul calls "signa apostolatus mei," "the signs of his apostleship," wrought among them in signs and miracles and powers: this was effected in healing the sick, and in striking the refractory with the rod of God; in giving sight to the blind, and making them blind, that would not see; in raising the dead to life, and causing them to die that would not live the life of righteousness. But this was not done ἰδίᾳ δυνάμει, not 'by any power of their own,' but by that power to which they only ministered,—by the power of Christ; who (blessed be his holy name for it) keeps this power only in his own hands. In these their power was no more a power of jurisdiction than Elias had, who, as St. James said, "prayed that it might, and prayed that it might not, rain;" and called for

[h] 1 Cor. xi. 30. [i] Epist. 75. [k] 2 Cor. xii. 12.
[l] Homil. 14. in 1 Cor. homil. 29. in 2 Cor. homil. 5. in 1 Tim.

fire from heaven. And just so the apostles, being moved by an extraordinary spirit, did, when the spirit saw cause, minister to the divine judgment. But that was not their work; they were sent of another errand, and were intrusted with other powers.

11. But after all this, it is certain that there were in the church some images and similitudes of jurisdiction in their spiritual government. The soul is not, cannot be, proper to any jurisdiction but that of God. For jurisdiction is the effect of legislation, and is in the mixed empire as the other is in the mere. Now none can give laws to souls but God; he only is Lord of wills and understandings; and therefore none can give judgment or restraint to souls but God. But as, by preaching, the ecclesiastic state does imitate the legislation of God; so by the power of the keys, she does imitate his jurisdiction. For it is to be observed, that, by the sermons of the gospel, the ecclesiastics give laws to the church, that is, they declare the laws of God; and, by the use of the keys, they also declare the divine jurisdiction: for as the church can make no law of divine worship or divine propositions, of faith or manners, but what she hath received from Christ and his apostles: so neither can she exercise any judgment but the judgment of God. To that she ministers by threatenings and denunciations, by comforts and absolutions, as she ministers to the legislative of God by preaching and publishing, by exhortation and command.

12. For there is an empire in preaching; there is a power of command which the bishops and ministers of the church of God must exercise. To this purpose St. Chrysostom[m] discourses excellently; "There are some things which need teaching, some which need commanding: if therefore you invert the order, and had rather command where it is necessary for you to teach, you are ridiculous; and as bad if you go about to teach where you rather should command. That men should do no evil, you need not teach, but to forbid it with the force of a great authority: and so you must command them, that they should not give heed to Jewish fables. But if you would have them give their goods to the poor, or keep their virgin, here you have need of doctrine and exhortation. Therefore the Apostle said both, Command and teach.

[m] Homil. 13. in 2 Tim.

Thus you see that a bishop must not only teach, but sometimes, it is necessary, that he should command." But then this, being a doctrinal precept, or commanding by the force of a clear confessed doctrine, hath in it no empire, but that it is a commanding in the name of God,—and means this only, that some things are so clear and obvious, so necessary and confessed, that he who neglects them, is condemned by himself; he need not be taught, but only commanded to do his duty: but, if he will not,—God, who gave him the law, hath also jurisdiction over him: and to this also the church does minister; for the bishop commands him in God's name; and if he will not, he can punish him in God's name,—that is, he can denounce God's judgments against him; and that is our ministerial jurisdiction: he can declare him to be out of the way of salvation, and unworthy to receive the holy mysteries and pledges of salvation. This is our coercion.

13. But the use of the keys does differ from proper jurisdiction in this great thing,—That if the keys be rightly used, they do bind or loose respectively; but if they err, they do nothing upon the subject, they neither bind nor loose. Now in proper jurisdiction it is otherwise: for, right or wrong, if a man be condemned, he shall die for it; and if he be hanged, he is hanged. But the church gives nothing but the sentence of God, and tells upon what terms God will, or will not, pardon. If the priest minister rightly and judge according to the will and laws of God, the subject shall find that sentence made good in heaven by the real events of the other world, which the priest pronounces here upon earth. But if the priest be deceived, he is deceived for himself and for nobody else; he alters nothing of the state of the soul by his quick absolution, or his unreasonable binding. For it is not true here which the lawyers say of human jurisdictions, "Quod judex errans pronunciavit, ob auctoritatem jus dicentis transit in rem judicatam." The priest hath no such authority, though the civil power have. The error of the judge does not make the sentence invalid; his authority prevails above his error: but in the other, it is the case of souls; and therefore is conducted by God only as to all real and material events, and depends not upon the weakness and fallibilities of men. And therefore the power of remitting sins, given to the church, is nothing but an authority to minister that pardon, which God

gives by Jesus Christ. "The church pardons sins, as the Levitical priest did cleanse the lepers," said St. Jerome; that is, he did discern whether they were clean or no, and so restored them to the congregation: but "apud Deum non sententia sacerdotum, sed reorum vita quæritur;" "God regards not the sentence of the priest, but the life of the penitent."—For "the priest 'aliquid est ad ministrandum ac dispensandum verbum ac sacramenta, ad mundandum autem et justificandum non est aliquid;' 'is something as to the ministry and dispensation of the word and sacraments, but nothing as to the purifying and justification of a sinner: for none works that in the inward man, but he, who created the whole man:" they are the words of St. Austin.—This therefore is but 'verbum reconciliationis;' 'the word of reconciliation is intrusted to us:' but we properly give no pardon, and therefore inflict no punishment.

14. Indeed the power of the keys is, by a metaphor, changed into a sword; and St. Paul's wish, 'I would they were even cut off, that trouble you,' seems to be the warrant; and, by excommunications, evil persons are cut off from the congregation of the Lord. And it is true, that the ecclesiastical authority is a power of jurisdiction, just as excommunication is a sword. But so is the word of God, "sharper than a two-edged sword;" and so is a severe reproof, it cuts to the bone.—"Ne censorium stylum, cujus mucronem multis remediis majores nostri retuderunt, æque posthac, atque illum dictatorium gladium pertimescamus," said Cicero[n]. "The censor's tongue was a sword, but our ancestors sometimes did not feel it smart; and we fear it not so much as the sword of the dictators."—But how little there is of proper jurisdiction in excommunication, we can demonstrate but by too good an argument. For suppose Julian robbing of a church, striking the bishop, disgracing the religion, doing any thing for which he is 'ipso facto' excommunicate: tell him of the penalty he incurs, cite him before the bishop, denounce it in the church; what have you done to him that shall compel him to do his duty? Suppose he will not stay from the church, that he will go to another, to a strange country: or that he despises all this:—Have you made him afraid? have you troubled him? have you grieved him? have

[n] Orat. pro Cluentio. cap. 44. no. 123. Weiske, pag. 90.

you done that which shall make him do so no more? But Julian was about to renounce Christianity, and thinks it all a fable. Or suppose less than that: suppose a man that keeps a concubine, and knowing that he sins, and yet resolves not to quit the sin, he abstains from the communion and the public service of the church; if the bishop admonishes him to leave the partner of his sin,—how, if he will not? By what compulsory can the ecclesiastic state enforce him? If you threaten to drive him from the communion, he hath prevented you; he never comes at it. If from prayers, you do him a kindness; for he loves them not.—If from sermons, then he will enjoy his lust without controlment.—What can the church do in this case? But suppose yet once more, that a violent hand shall pull down the whole episcopal order, what shall the church do then? will she excommunicate the men that do it? They say 'The order itself is antichristian;'a nd can they fear to be excommunicated by them? and who fears to be excommunicated by the Presbytery, that believes them to be a dead hand and can effect nothing? And in the sum of affairs, only the obstinate and the incorrigible are to be proceeded against by that extreme remedy. And to them, who need that extreme, it is no remedy: for they that need it, care not for it: and what compulsion then can this be? If it be any thing really effective, let it be persuaded to them, that shall deserve it; for it must work wholly by opinion, and can affright them only, who are taught to be afraid of it. It can only do effort upon them, who are willing to do good in the way of the church: for it is a spiritual punishment; and therefore operates only upon the spirit, that is, upon the will and understanding, which can have no coercion: so that, in effect, it compels them who are willing to be compelled, that is, it does not compel at all; and therefore, is but improperly an act of jurisdiction.

15. For that which the ecclesiastics can do, is a suspension of their own act, not any power over the actions of other men: and therefore is but a use of their own liberty, not an exercise of jurisdiction. He does the same thing in sacraments as he does in preaching: in both, he declares the guilty person to be out of the way to heaven, to be obnoxious to the divine anger, to be a debtor of repentance; and refusing to baptize an evil catechumen, or to communicate

an ill-living Christian, does but say the same thing: he speaks in one by signs, and in the other he signifies by words. If he denies to give him the holy communion, he tells him he is not in a state of grace and the divine favour, he tells him that he hath no communion with Christ; and therefore, by denying the symbols, says that truth, which, by his sermons, he publishes. All the effect and real event are produced by the sin of the man; and the minister of religion tells him, as God's messenger, what he hath done to himself, and what will come upon him from God. This is 'judicium, non jurisdictio,' 'a judging, not a jurisdiction;' a judging a man worthy or unworthy; which does not suppose a superiority of jurisdiction, but equals do it to their equals, though, in this, the clergy hath a superiority, and an authority from God to do so.

16. Add to this, that the other effects of excommunication are not any force or impression upon the delinquent, but are the caution and duty of the church, or 'sanior pars' of them that are innocent; for it is a command to them to abstain from the society of the criminal: for to him it is no direct obligation: indirectly it is,—as I have already affirmed and shall afterward discourse.

17. This discourse cannot lessen the power and authority of the church; it only explicates the nature of it, because it is useful to many cases of conscience, and does rightly establish the foundation of this great measure of conscience, 'ecclesiastical laws,'—and it adds grandeur to it. For it is in the ecclesiastical government, as it was in the Judaical, before they had a king. They had no king of their own, but God was their king; and he did exercise jurisdiction, and appointed judges over them, and wrought miracles for their punishment or their escape respectively; and so it is in the church: Christ, our head, keeps the spiritual regality and the jurisdiction in his own hands, but sends us to minister it according to his laws; which if we do, they who are found criminals, cannot be smitten by us, but they shall be smitten by God: and therefore Christ said the same thing to his missionaries, as God did to Samuel; "They have not rejected thee, but me," said God;—and, "He that despiseth you, despiseth me," said Christ.—And now, although kings have the sword in their own hand, and can smite the disobedient; yet we cannot: but God will smite them, that are disobedient

to the church: and that is worse for them that feel it, and better for them that are but threatened; for it is true, that by repentance they may escape that which is threatened by the church, which, in the commonwealth, they cannot: but these that feel it, are in a worse condition; for "it is a fearful thing to fall into the hands of the living God;"—and "Who can dwell with the everlasting burnings?"—"For our God is a consuming fire."—

RULE II.

The Church hath Power to make Laws and to give Commands obliging the Conscience, that is, tying the Subjects to Obedience under the Penalty of committing Sin, or of incurring the divine Displeasure.

1. By 'the church' it is certain I must first mean 'the church catholic,' or all the governors of the Christian assemblies in the world: because if it be in a part, it is in the whole; and if it be neither in a part nor in the whole, it is no where. But yet because the whole catholic church, that is, all the governors of churches (for if we speak of the church making laws, we must mean the governing part of the church) did never meet since the days of the apostles, who, being few and united and absolute and supreme, could then do what could never be done since: it is necessary for the reducing this rule to practice, that the legislation and the power of commanding be subjected in some more particular subject; and therefore I shall instance in the least. By 'the church,' I mean 'every particular church joined to the head of union;' and by 'the particular church,' I mean 'the angel of that church,' 'the bishop;'—according to that saying of St. Cyprian°; "Scire debes episcopum in ecclesia esse, et ecclesiam in episcopo;" "The bishop is in the church, and the church in the bishop:" that is, he is in the church, as the head is part of the body,—and the church is in him as in their representative; and all their power is ministered by his hand, and their interest promoted by him; and he is the hand of God and the hand of the people; this lifted up, and that

° Epist. ad Florent. Pupian. lib. 4. ep. 9.

let down; this in the ministry of prayers, and that in the ministry of blessings. And therefore St. Chrysostom[p] expounding those words of Christ, 'Tell it unto the church,'—says, that 'they mean, Tell it to the bishop of the church, who is to minister food and discipline to the congregation.'

2. Now all the power of commanding and making ecclesiastical laws, that is, laws of religion, is wholly in the pastors and bishops in the supreme order of ecclesiastics. If there be two orders of divine institution, it is certain that one is the superior; and therefore one only is to rule in eminency, and the other can rule but in minority and substitution: and that which is appointed to rule, is the superior. Now the case then is clear as to the present purpose: the presbyters were under bishops, and might be accused before them and rebuked by them; we see it plain in the case of Timothy and Titus, to whom St. Paul gave rules of court, and measures of taking cognizance of causes brought before them. There was plainly the judging order and the judged; the elders or presbyters were judged; over them were overseers placed. "Par in parem potestatem non habet." Since therefore a judicatory was placed in the church, though it was a spiritual only and without temporal coercion, yet it had a just authority; and therefore, must suppose a distinction in the clergy of superior and inferior. Now because there can be no union political without government, and the government which was appointed, was that of the ἄνδρες ἡγούμενοι, 'the ruling clergy,' it follows, that, the bishop being the head of spiritual union in the first institution of the church, every society of Christians is reckoned one by the unity of the bishop; and therefore, that society of a bishop and his parish is the least indeed, but it is a Christian, commonwealth. Now the practice apostolical and primitive administering this power by one and one in every church, where there were many presbyters, it must be evident, that he who was superior to the presbyters, was to rule in every congregation; and because there was none superior to him by divine or apostolical appointment, all the legislative or commanding power in the church is founded in the episcopal order; and therefore that one bishop hath in his own charge a legislative or power of command; and therefore much more,

[p] Homil. 61. in Matt.

when many bishops meet together. A diocess is the least circuit of government, but it is an entire body subject to distinct commands; that is, every diocess hath one set over them in the Lord, to whom the people are, by the commands of Jesus Christ, tied to give obedience.

3. Whether the diocess be little or great, allowed or disallowed, in city or in country, divided into parishes or not divided, under metropolitans or not under, of many churches or but one,—it matters not: where there is a bishop and a congregation, there is a diocess, and there is a power of commanding and a necessity of obeying, 'intra limites disciplinæ,' 'within that pale,' in which they have warranty and power to govern and to give commandments. As for parishes in the late sense of the word, that is the charge of a single presbyter,—it is no body politic of apostolical or divine appointment: for the presbyters were called 'in partem solicitudinis,' 'into the help of the ministry;' but they had no cure of souls, save only by delegation and special and temporary appointment, for some whole ages in the church: and therefore the governing and the commanding authority cannot be extended to parishes and to their curates, which are of late date, and received no power from Christ but that of ministry,—which is also conveyed by the bishops' hands. But then because, above the bishop, there is no appointment in the whole religion,—it is necessary that the legislative be established in him: if we go higher, we can never come to a society of apostolical or divine institution in the church,—because, between the whole catholic church, either in diffusion or representation, and a single diocess, all the intermedial unions, as of metropolitans, primates, patriarchs, council provincial or Œcumenical, are by consent and positive and human institution, but they directly establish no divine government. This only is properly such. And though this can suffer alteration as to the administration of it, yet the proper seat of the authority is the bishop, by virtue of his order. Whether the bishop of Rome received the power into himself alone, and so conveys it to all other bishops, is not material to our present inquiry; for that is a question of the manner of receiving it, not of the power when it is received. I shall, in order to other purposes, discover the unreasonableness of that fond pretence and novelty. But that which I

say is, that those persons, who, by Christ's appointment or by the apostles, were authorized to govern the church, are the heads of Christian societies, and every such society is a distinct government; and that this cannot be the division of parishes, because that division was later than the authority: and though this be true also of dioceses, as they are now divided, yet that division being but accidental to the charge, and the charge being an appointed relation,—that which is accidental and superinduced, cannot prejudice the nature and institution of it, but that a bishop and his charge, more or less, is an entire society or commonwealth, as much as the thing can be; that is, according to the nature and capacity of the subject-matter, it is an entire government, and prelate and people make the parts of the integral constitution.

4. To the verification therefore of the power thus subjected, all those titles of eminency and superior office recorded in Scripture do aptly minister: as that they are called 'pastors,' and 'rulers,' and 'præpositi,' *and ἐπίσκοποι*, 'bishops' or 'overseers' of the church: he that hears them, hears Christ,—who hath sent them, as himself was sent. Upon the account of these, the first rulers of churches in Scripture did give laws to their people, and threatened the disobedient not only by the force of their extraordinary power, but by the effects of their ordinary ministry. The particular instances of command I shall enumerate, when I give account in what things they have power to make laws; but these words of power were sufficient warrant, and were like seals to their commissions and monitors of their duty. But so the rulers of the church did practise their power, and taught the necessity of obedience.

5. To this purpose are those words of St. Clement[q] to St. James the brother of our Lord; "These things, most dear brother, I have received from the mouth of holy Peter, who gave the commands, and I have endeavoured to show them to thee, that thou mayest command them all to be kept inviolate, because ecclesiastical affairs ought not to be done carelessly, but with diligence. Therefore let no man think, that, without danger, he can neglect these precepts, or dissemble them; 'quia in judicio Dei ignis æterni tormenta sustinebit,

[q] Epist. Clem. 1. in fine.

qui ecclesiastica decreta neglexerit;' 'because, in the judgment of God, he shall suffer the torments of an eternal fire, who shall neglect the decrees of the church.' But he that shall hear thee as the minister of Christ commanded, shall receive glory: but he that shall not hear thee, or rather the Lord speaking by thee, shall receive to himself damnation."

6. St. Ignatius[r] is very frequent and express in this particular:—"Be subject to the bishop as to the Lord. For he watches for your souls, as he that must give an account to God. For it is necessary, that you do nothing without the bishop. For he that is disobedient to bishops, will be altogether without God, impious, and a despiser of Christ, and a disparager of his ordinance."—And again[s]; "It is fit that you obey your bishop, and in nothing to contradict him. For he that does, despises not him that is visible,—but, in him, despises the invisible God, who cannot be despised of any one. For the bishop hath not his promotion from men, but from God."

7. Tertullian[t], speaking of the power and judicatory of the church, saith, "Ibidem etiam exhortationes, castigationes, et censura divina; nam et judicatur magno cum pondere, ut apud certos de Dei conspectu;" "There are exhortations, chastisements, and a divine censure; for the judgment of the church is with great weight and efficacy, because it is amongst them who are certain that they shall appear before God; and it is the greatest forerunner of the great judgment, if any one sins so that he be banished from the communion of prayers, assemblies, and all holy intercourse."

8. To which if we add the words of St. Cyprian[u], we shall find not only the power and authority warranted, but the subject of the power declared to be the bishop:—"Since there are such and so great and many other examples and precedents, by which the authority of the bishop and his powers are established by divine ordinance, what sort of men do you suppose them to be, who, being enemies of bishops and rebels against the catholic church, are not affrighted with the threatening of God admonishing them, nor yet with the revenge of the future judgment? For heresies have arisen and schisms commenced from no other cause than this, that men

[r] Epist. ad Trallian.
[s] Epist. ad Magnes.
[t] In Apologet.
[u] Ep. ad Corncl. Papam, lib. 1. ep. 5.

do not obey [*the bishop*] the priest of God: neither do they consider that there is in the church for a time a judge instead of Christ, to whom if all the brethren would obey according to the commands of God, no man would move any thing against a college of bishops; no man would, after the divine judgment is passed, after the suffrage of the people, and the judgment of the bishops his assessors, make himself a judge not of the bishop, but indeed of God himself; no man would divide the unity of the church; no man, by a self-pleasure and pride, would make a new heresy apart by himself."

9. I only add the testimony of St. Jerome [x], it being in a clear case as to the thing itself; and the difficulty being only in the measures, the manner, and instances, of obedience. "Episcopus vester cui ecclesiæ commissum est regimen," &c. "Your bishop to whom the government of the church is committed, whom God hath placed as the surveyor of his vineyard, the shepherd of the sheep, the director of the flock, the leader of the people both in the city and the country in which ye live, let him nourish you with a singular care, and feed you with the meat of holy doctrine, and in the presence of God take especial care of your souls: let all men, devoutly, and with an even mind as to God, obey him to whom all the city is committed."

But because I have given a larger account of this duty in general, in a discourse [y] on purpose, I shall more properly consider in what particular cases the conscience is, or is not, bound to obey the church-governors.

RULE III.

The Church hath Power to make Laws in all Things of necessary Duty, by a direct Power and a divine Authority.

1. St. Ignatius, discoursing of the bishop's power, commands subjection to him in so large and comprehensive terms, that they seem to put an end to all further inquiries in this rule of conscience, by making all inquiries to be useless; because an obedience universal is due. "Necesse est

[x] In Regul. Monachor. cap. 17. [y] Episcopacy asserted.

ut quicquid facitis, nihil sine episcopo tentetis, et in nullo illi refragari[z]:" and again[a]; "Nec quicquam videatur vobis consentaneum, quod sit præter illius judicium; quod enim tale est, Deo inimicum est:"—"It is necessary that whatsoever ye do, ye do nothing without the bishop; that ye be obedient to him, and be refractory against him in nothing:—neither let any thing please you, that is besides his judgment; for whatsoever is so, is an enemy to God."—The same also he repeats in other places, and gives it in command to other churches. But this is too general to guide any man, and therefore of itself requires a limit: and therefore himself does explicate it in his letter[b] to the church of Smyrna:—"Sine episcopo, nemo quicquam faciat eorum, quæ ad ecclesiam spectant;" "Without the bishop let no man do any thing of that, which belongs to the church;"—that is, whatsoever is intrusted to the bishop's charge, the conduct of souls, the duties of religion, the commandments of God, the sacraments of the religion, the orders of the divine institution, the interior actions of grace, and the external which are of necessary ministry and relation to them, are under the discipline and legislation of the church. For in these things only, his charge,—and therefore, in these only, his authority,—does lie.

2. Thus the bishop hath power to command his subject or parishioner to put away his concubine; and if he does not, he not only sins by uncleanness, but by disobedience too. For the authority of the church being spiritual, it hath power over the spirit, and introduces guilt upon the soul if it be disobeyed. So that it is but folly and ignorance to think the bishop hath no power, because he is to command only in those things where God hath commanded already. For though he is God's minister, and commands not by his own will, but by God's, yet he hath the authority of God given to him to do that: and besides that it is not reasonable to think, that God would give the church-rulers his authority for trifling and needless purposes; it is also evident in the thing itself, that it is of great effect, because, even in these things, he is the voice of God, and judges in the place of God, and affrights sinners with the accents of his displeasure, and, upon this account, brings a burden upon the dis-

[z] Ad Trallian. [a] Ad Magnes. [b] Epist. ad Ephes.

obedient, which was never brought upon him before the command and sentence of the church.

3. Whatsoever therefore the bishop commands us as from God, in that his power and legislation are properly exercised: and it is absolutely to be obeyed without any other condition or reserve, but that it be indeed the will and commandment of God. So St. Bernard[c]; "Quicquid vice Dei prælatus homo præcipit, quod non sit tamen certum displicere Deo, haud secus omnino recipiendum est ac si præcipiat ipse Deus;" "Whatsoever the prelate, in the stead of God, commands, provided you are certain it does not displease God, it must be received, as if God himself commanded it. For what difference is it whether God by himself, or by men, his ministers, or by his ministering angels, make his will and pleasure known unto us?"—Where it is observable, that he does not give leave to disobey, if we question whether it be God's will or no; for if it be a question, the presumption is for the authority imposing it: and in that case, though it be a doubt in theory, yet *that must* not hinder the practical obedience; because it is as certain, that our lawful superior hath power to command us to obey, when we are not certain of the thing, as it is certain that it is a sin, if we do it in a doubting conscience by our own authority. For "the authority of God in the hand of the prelate" is warrant enough to determine us, when we know nothing to the contrary, though "our own will is not." If we have a doubting conscience, we have nothing, while the doubt remains, to oppose against it but our will, and that is not sufficient; but a divine authority is. Now although, in the present case, it does not work to the clearing of the material doubt, yet it does operate to the clearing of the duty: and therefore St. Bernard said well, "Quod non sit tamen certum displicere Deo," "Unless you are sure (that is, be fully persuaded), you displease God in obeying the bishop, it is certain you do displease God by disobeying him."

4. For it is a part of our obedience not to judge his sentence, that is, not to give judgment against him in a question of difficulty, but to stand to his sentence: "Credas tibi salutare, quicquid ille præceperit; nec de majorum sententia judices, cujus officii est obedire et implere quæ jussa sunt,"

[c] Lib. de Præcepto et Dispensatione.

said St. Jerome[d] in a like case: "It is your part to obey, and to do what is commanded, and not to judge your judges; but to believe all that to be good which your prelate commands you;"—meaning, when his command is instanced in the matter of the divine commandment. In things that are plain and easy, every man can be a judge, because indeed there needs none, for there is no question: but in things of difficulty, and where evidently God is not dishonoured, it is very much our duty to obey the church.

5. Thus the church hath power to command us to be devout in our prayers,—to be charitable to our brother,—to forgive our enemy,—to be heartily reconciled to him,—to instruct the ignorant,—to follow holiness,—and to do justice,—and to be at peace with all men; and he that obeys not, does walk disorderly, and may be used accordingly with all the power the church hath intrusted to her, according to the merit of the cause: but it is certain he sins with a double iniquity, that refuses God's commandment and the precept of his spiritual superior; for, in these things, every man can exhort, but the bishop can command; that is, he binds the commandment of God by a new obligation and under a distinct sin, the sin of disobedience.

RULE IV.

The Church hath Power to make Laws in such Things, which are Helps and apt Ministries and Advantages of necessary Duty.

1. This rule is expressly taught by St. Basil[e]: "Necessario ea nos in memoriam debemus redigere, quæ dicta sunt ab apostolo, 'prophetias nolite spernere'—Ex his autem intelligitur quod si quid nobis imperatum est, quod idem sit cum mandato Domini, aut adjuvet, illud, tanquam voluntas Dei, studiosius diligentiusque à nobis suscipi debet;" "We must remember what the Apostle said, 'Despise not prophesyings.' But if any thing be commanded us which is all one with the command of God, or may help it, it ought to be undertaken by us with diligence and study as if it were the will of God." —Thus if our bishop, in his precepts and sermons of chastity,

[d] Ad Rusticum Monach. [e] In Regul. Brevior. cap. 14.

command that the women go not to the public spectacles, where are represented such things which would make Cato blush, and Tuccia have looser thoughts, they are bound, in conscience, to abstain from those impure societies; and not only from the lust, but from the danger. For in vain is it, that God should intrust the souls of the people to spiritual rulers, and give them wisdom to do it, and commandment to do it with diligence, and gifts of the Holy Spirit to enable them to do it with advantage, if the people were not tied in duty to decline those places and causes, where and whence they do usually perish.

2. And in pursuance of the episcopal authority, in the like instances it was, that St. Chrysostom held his pastoral staff over the disobedient: for the church had declared, that, in the holy time of Lent, the people should live austerely, and therefore he told them, at that time especially, that they should not go to the public shows and theatres; and to the disobedient he adds this threatening[f]: "Sciant omnes his criminibus obnoxii, si post hanc *nostram* admonitionem in ea negligentia manserint, non toleraturos nos, sed legibus ecclesiasticis usuros, et magna austeritate docturos ne talia posthac negligant, neve tanto contemptu divina audiant eloquia;" "Let all that are guilty of such crimes, know, that if after this admonition they persist in this neglect, we will not suffer it, but use the laws of the church against them, and shall teach them with great austerity, that hereafter they do not hear the divine sermons with so great contempt."

3. Upon the same account, the church, in her sermons of repentance, does usually, and hath authority to, enjoin actions of internal and external significations and ministries of repentance. In the primitive church the bishops did indict fasting-days, and public litanies and processions of solemn supplications and prayers to be used in the times of public danger and necessity. This we find in Tertullian[g]; "Episcopi universæ plebi mandare jejunia assolent, non dico de industria stipium conferendarum, ut vestræ capturæ est, sed interdum et ex aliqua solicitudinis ecclesiasticæ causa:" "The bishops are wont to command fasting-days to all the people, not for secular ends, but for ecclesiastical necessity and advantage."—For when God hath established an office

[f] Homil. 6. in Genes. [g] Lib. de Jejunio in Psychicos.

and ministry, it is certain he made it sufficient to acquire all the ends of its designation: since therefore the government even of internal actions, and a body or society of men must suppose external acts, ministries, circumstances, and significations, no man can from without govern that which is within, unless he have power to govern that, without which the internal act cannot be done in public, in union and society.

4. And here comes in that rule of the law, 'The accessory follows the nature of the principal;' which hath been so infinitely mistaken and abused by the pretences of Romanists and Presbytery for the establishing an empire ecclesiastical in things belonging to themselves, not to God. For the soul being the principal and the body its instrument, they hence argue that they, to whom the souls are committed, have therefore a right to govern the body, because it is accessory to the soul; and if the body, then also the accessories of the body, actions, circumstances, time, wealth, lands, and houses, in order to the spiritual good of the soul: which proposition because it is intolerable, it can never be the product of truth, and therefore must be derived from a false understanding of this true rule of the lawyers. But because, in its true meaning, it serves to conduct many, and particularly this rule of conscience, it is necessary that we know the true meaning of it.

The Rule 'The Accessory follows the Nature of the Principal' explicated.

5. Therefore for the understanding of it so far as can be in order to our design, it is to be inquired, 1. How we shall know, which is the principal and which is the accessory. 2. In what sense the accessory must follow the nature of the principal.

6. (1.) That which is principal to one purpose, is but the accessory to another sometimes. If Titius hires my land and builds a house upon it, the house is but the accessory, because it came, after my land was in possession. But if Titius buys my house standing upon my own land, he buys the land too; for the land is but the accessory, and the house is the principal: because the house being the purchase, it cannot be at all but upon a foundation, and therefore the ground is the accessory, and after the house in the intention of the

buyer. 'Villa fundum quærat,' is sometimes true; but ordinarily, 'Fundus quærit villam.'

7. (2.) That which is of the greatest value, is not always the principal, but sometimes is the accessory. The picture of Apollo upon a laurel board is much more precious than the wood; and yet if Apelles should take Lucian's wood and draw the picture, Lucian will make bold with the board, and consequently carry away the picture. A jewel, set in gold, is much better than the gold, but yet the gold is the principal, because it was put there to illustrate and to adorn the gold; according to that of Ulpian [h], "Semper cum quærimus quid cui cedat, illud spectamus, quid cujus rei ornandæ causa adhibetur." And therefore if Caius, dying, leave me in legacy his black cloth suit, I shall also receive the diamond buttons that adorn it: because these were placed there to adorn it: and therefore are the accessory, because they are 'usu minores,' and wholly set there for the ministry of the other. "Quod adhibetur alterius rei causa;" that is principal, for whose sake the other was sent or put. *And therefore* it is no good argument to conclude, that the body is the accessory, because the soul is more noble. "Cedent gemmæ phialis vel lancibus inclusæ auro argentove." The soul is, indeed, a jewel set in gold; but is, therefore, an accessory to the body in some cases. He that buys the body of a slave, hath right to all the ministries of the soul; and the man is bound to serve his master with a ready mind and a good will; and the soul is a παρακολούθημα of the body. The body is first, and the soul comes afterward to give it life and motion.

8. (3.) When two substances concur to the constitution or integrity of a third, one is not the accessory to the other. The eye is not the accessory to the head, nor the foot to the leg, nor the hand to the arm; for that only is an accessory, "quod alterius rei causa adhibetur aut accedit:" if it comes in accidentally and be wholly for the other's sake, then it is an accessory. Thus order and decency and circumstances of time and place, are for the ministries and ornament of religion, and therefore are accessories. The outward act is the less principal, and an accessory to the inward, for to the inward it wholly ministers; and consequently he that disposes

[h] Lib. Cum Auram. 19. sect. Perveniamus ff. de Aur. et Argent. Leg.

of one, may also govern the other, because the less principal is included in the more, and the less and the more have not two administrations, because they have but one use. But the soul and the body are two distinct substances of differing ministrations, acting to several and sometimes to contrary purposes; they are parts of the same man, a better and a worse, but not a principal and accessory, unless it be by accident and in some uses and to some purposes; and then sometimes one, sometimes the other, is the principal. Concerning which the rule is this.

9. (4.) Those things which of themselves are not, but, by accident, may be made, accessories to a principal, are then to be esteemed to be so, when they actually and wholly are joined in use to the principal, and serve the end of the principal, but have none of their own. Thus when the soul prays passionately, if the lips move without a deliberate act of understanding, but obeying the fancy, the body in that case is purely the accessory. I say, in that case: for if the body receive a command to other purposes, as to attend upon the prince at the same time, when the soul prays, in that case they are both principals; and neither of them accessory to the other. And therefore although it will follow, that, when the body ministers to the actions of the soul wholly, and hath no distinct work and office of its own in that action, he that commands the soul, can also command the body; for they are in that ministry but as one: yet it will not follow that when the body is not the accessory, it is not conjunct in ministry, but does or can act distinctly and to other purposes; he that is of proper authority to command one, hath authority also of the other. And the reason of this will help well to explicate this whole inquiry. For,

10. (5.) He that pretends to a power over the accessory, because he rules the principal, claims his power wholly for its relation to the principal, and therefore it can be extended no further than the relation; but if that relative have also an absolute and irrespective nature, operation, or design, it cannot be governed in any thing of this, because of its relative nature and conjunction in the other; for there it is not accessory. For it is the nature of the *συνεκτικὸν αἴτιον· οὗ παρόντος μένει τὸ ἀποτέλεσμα, καὶ αἱρομένου αἴρεται*, "the conjunct cause or reason; when it is there, the work will follow: but

when it is away, there will be no event," says the philosopher.

11. (6.) It is not enough to make a thing to be accessory, that it is designed for the use and ministry of another that is principal; but it must be actually applied: for till then it is but a potential accessory, which gives no right, and changes no nature, and produces no effect. Bridles and saddles are made to be used with horses: but he that buys all the horses in a fair, cannot claim all the saddles and bridles, which are in the same fair to be sold; because they are not yet become the accessories, but are only designed to be so. It is intended, that the body should minister to the soul in matters of religion; but because it ministers also to other actions of the soul, he that rules the soul, does not, by consequence, rule the body, unless it be actually applied, and be conjunct with the soul in the ministries of religion.

12. These may be sufficient to declare so much of the nature of accessories, as is of use in our present questions. The next inquiry is, what is the meaning of *these words*, "The accessory *follows the nature* of the principal." For it cannot be meant that whatsoever is said of one, may be said of the other; or whatsoever may be done to one, may be done to the other. The rulers of souls have power to excommunicate or to cut them off from the bodyof the church, which is the greatest spiritual power, and is after its own manner a spiritual death. Now suppose the body be an accessory to the soul, it will not follow, that he that can cut the soul off from the church, can cut the body also off from the commonwealth. But the meaning is, that "duplici et diverso jure censeri non debent,"—they who are joined in one action, are to have one judgment, though according to their respective measures. If the soul does well, so does the body ministering to the soul. If it be good to pray, it is good to appoint time and places to pray in, because without time and place you cannot pray: if time and place be contingent and irregular, so are our prayers: if our prayers be solemn and fixed, so must they. And thus also it is in matter of government. If the bishop is to guide the devotion of the soul, he can also give rules to the body in all that, which it ministers to that action of the soul; and when they two make one complete action by way of principal and accessory, they

are the same one entire subject of government. But this is to be extended no further. This passes not to the distinct actions or ministries of the body; but is confined to that in which it is, and so long as it is one agent with the soul: neither can it pass to warrant any other impression upon the body, but that it be commanded and conducted in the pursuit of that action.

13. And after all, though the rule be thus warily conducted to keep it from running into error, yet neither thus is it always true. "Cum principalis causa non consistat, plerumque ne ea quidem, quæ sequuntur, locum habent," says the law[h]. It is sometimes so, sometimes not. Money is accessory to the man, as clothes to the body; but he that hath the man in cure, is not the 'curator bonorum;' and the physician that gives physic to the body, and conducts the regiment of health, is not master of his wardrobe: and the epigram derided Herod the empiric,

Clinicus Herodes trullam subduxerat ægro:
Deprensus dixit, 'Stulte, quid ergo bibis[i]?'

because when he came to take away his patient's sickness, he took away his plate. If the principal act be confirmed by an accessory oath, though the principal act prove null and invalid in law, yet the man is tied by the remaining oath. A man cannot offer to God an indifferent action or thing. And therefore he that promises to God to walk three turns every day, hath done nothing; the act is null, and he is not obliged to pay that to God: but if an oath did supervene, that must stand[k], though the principal of itself be null; because every oath, that can without sin be kept, must stand. The alienation of a minor's lands is rescinded by law, yet the obligation and caution of the tutor, for the accessory verification of the principal sale, will stand; because there is a reason that separates the accessory from the principal: and the law intending to rescind the translation of the dominion, not to rescind the contract, leaves the principal loose, and the accessory bound. This is also thus in actions principal and accessory, which the law calls 'personales et hypothecarias.' Mævius dies, and divides his estate between Lucius and Lucullus; but he was indebted ten talents, and for caution had

[h] Ff. de Regul. Juris, lib. 178. et lib. 129. ff. eod.
[i] Martial. ix. 97. Mattaire, pag. 187.
[k] C. cum Contingat. extr. de Jure Jur.

engaged some jewels. Lucius pays his five talents, and Lucullus pays four of the other: the personal action of Lucius is dissolved, but the accessory is not; for till Lucullus's personal or principal be taken off, the accessory and cautionary remain upon them both: and this also hath a particular reason, and so have all those cases, in which this rule fails.

14. From whence I infer, that this thing is sometimes reasonable, and sometimes unreasonable, but it is never necessary but in one case; and that is, when the accessory is necessary and inseparable, either by reason of a natural or positive conjunction. For some things are accessory by use and customs, some by laws and commandments, some by the nature of the thing. Now of the first two sorts the measures are contingent and alterable: the laws sometimes declare a thing to be accessory, and at other times it is not so: and if, by use or contract or custom, a thing be accessory, it ceases to be so, if the accessory be particularly excepted. As if I buy a house, it is by custom concluded that I intend the garden, that is joined to it; and he that sells a horse, *sells* his bridle: but if the garden be reserved, and the bridle be excepted, the rule then is of no use.

15. Now to apply this to the present inquiries. 1. Because the body is not in the nature of the thing an inseparable, necessary accessory to the soul in spiritual actions and ministries; but the soul can pray alone, and be charitable alone, and love God alone; and the body hath actions, and intentions, and interests, which mingle not with that, which the spiritual rulers are to govern; therefore it cannot be inferred, that the body is subject, in all things, to them who govern souls.

16. But, 2. It does follow, and may by force of this rule be inferred, that they who are to govern the religion and spiritual actions of the soul, can also govern the actions of the body, which minister immediately and necessarily to the necessary actions of the soul: and therefore because it is a duty that we communicate in the communion of saints, when that duty is actually and of necessity to be done, the bishop hath power to command the bodies of men to be present in Christian assemblies, according to the precept of the Apostle; "Neglect not the assembling of yourselves together."

17. And yet further, to come home to the present rule, there are several degrees of necessity, and several reasons

of it. Some things are necessary for life, and some for health. Some are necessary for single Christians, some things are necessary for societies; some things are necessary in private, and some in public; some things are for order, and some for precise duty; some things are absolutely, and some are but respectively, and in order to certain ends, necessary. The body is an accessory to the soul, 'atqueeodem jure censendum,' 'to be judged by the same laws,' governed by the same persons, subject to the same sentence and conduct, not only in the things of absolute necessity, but even in things of great advantage; not only in private necessity, which is always indispensable, but even in public necessities of the church, in which there is greater latitude and more liberty: and the reason is, because even these lesser degrees of necessity are required of us by divine commandment; and it is not only commanded to us to do that which is lawful, but that also 'which is of good report;' not only that we glorify God, but that our brethren be edified. And in proportion to this, it is required of the guides of the souls that 'they give good account of them;' but it is required of us also that we so comport ourselves, that "they may do it with joy[k]:" which cannot be supposed, if their power be kept within the bounds of a simply and indispensably necessary internal religion: it cannot be done without prosperous circumstances and advantages of religion: in these therefore if spiritual guides have not power to give commands, they have not all that is necessary by all the kinds of necessity, which God made.

18. But this rule we see verified by authentic precedents. For the apostles at Jerusalem indeed thought fit to impose nothing but those 'necessary things,' which are specified in their decretal; but St. Paul used also this authority, by the measures of the present rule, and commanded beyond the limits of absolute necessity, even that which he judged convenient; and verifies his authority in his Epistle to Philemon[l]; "I might be much bold in Christ to enjoin thee that which is convenient:" and this he actually did to the Corinthian church, commanding that "all things should be done decently, and in order."

19. Now although it be true, that, in these things, the

[k] Heb. xiii. 17. [l] Philem. 8.

Apostle had some advantages, which the bishops, in succession, had not: he had an infallible spirit, and what he called convenient, was so indeed; and he had converted Philemon, he was his father in Christ, and he was one of the pillars, upon which Christ built the church, and he was to lay the foundation of an everlasting building: yet because the instance to the Corinthian church was such, which was of a perpetual reason, and it would be for ever necessary, that things should be done in the church "decently and in order," and the question of decency would for ever have variety and flux, succession and a relative uncertainty, it was necessary that of this there should be perpetual judges, and perpetual dictators; and these can be no other but the rulers of the church, who have the same power as the apostles had in this, though not so many advantages of power. When the bishops judge truly concerning necessity, and such decencies and reasonablenesses, as are next to necessity, they can enjoin them, only they cannot judge so surely; and therefore, although there may be more causes of *laying aside* their commands, yet it is never lawful without cause.

20. But this is not to be extended to such decencies as are only ornament, but is to be limited to such as only rescue from confusion. The reason is, because the prelates and spiritual guides cannot do their duty, unless things be so orderly, that there be no confusion, much less can they do it with joy; and so far their power does extend. For although that is not required of the governors, but of the people, that the ruler's office be done with joy; yet because it is required of the people, they sin, if they hinder it; therefore the rulers have no power to enjoin it. But if he can go beyond this limit, then it can have no natural limit, but may extend to sumptuousness, to ornaments of churches, to rich utensils, to splendour, to majesty; for all that is decent enough, and in some circumstances very fit. But because this is too subject to abuse, and gives a secular power into the hands of bishops, and an authority over men's estates and fortunes, and is not necessary for souls, and no part of spiritual government,—it is more than Christ gave to his ministers.

21. This also is to be added: that because this power is derived to spiritual rulers upon the account of reason and experience of things, and the duty of the people, that the

rulers should be enabled to give an account of their charges with joy, therefore it is only left to the people to do it or not, under the pain of a sin; but they are not to incur spiritual censures upon the stock of noncompliance in things not simply necessary or of essential duty. For to compel them to advantages, will bring but little joy to the ruler: he must secure the main duty, whether they will or no; that himself is to look to, and therefore to use all the means God hath put into his hand; and for that he must look for his joy, when he comes to give up his account: but that he himself should do his duty with joy; that is, with advantages, with ease, with comfort, being a duty wholly incumbent on the people, and for their profit, if they will not comply, they sin; and "it is not profitable for them," saith the Apostle [m]; that is, they lose by it; but to this they are at no hand to be constrained, for that will destroy his joy, as much as the letting it alone.

22. Beyond this the bishop hath no authority to command what he can persuade by argument; he is to take care it be well and wisely, to the glory of God, and the good of his church, to the edification of all men that are interested, and the special comfort and support of the weak. The sum of which power is excellently summed up by St. Paul [n]: "For ye know what commandments we gave you by the Lord Jesus:—For this is the will of God, even your sanctification; that ye abstain from fornication—that no man defraud his brother." In these things the spiritual power is proper and competent. But the Apostle adds, "He therefore that despiseth, despiseth not man but God, who hath also given us his Holy Spirit." That is, in those things, which are certainly the laws of God, the bishop is to rule entirely according to the power given him. But because God hath not only given his authority, but his Spirit too, that is, he hath given him wisdom as well as power, it cannot be supposed to be for nothing: whatever he wisely orders, that is of necessary relation to the express command of God, or is so requisite for the doing of it, that it cannot be well done without it, by any other instrument, nor by itself alone. In this it is to be supposed, that the spirit of government, which God hath given to his church, will sufficiently assist, and

[m] Heb. xiii. 17. [n] 1 Thess. iv. 2, 3. 6.

therefore does competently oblige: less than this the Spirit of God cannot be supposed to do, if it does any thing beside giving and revealing the express commandment and necessary duty.

23. Beyond these strict and close measures, there is no doubt but the Spirit of God does give assistance: as the great experience of the church, and the effects of government, and the wise rules of conduct, and the useful canons, and the decent ceremonies, and the solemn rites, and the glorifications of God consequent to all this, do abundantly testify. But yet beyond this, the bishops can directly give no laws, that properly and immediately bind the transgressors under sin: and my reasons are these,

24. (1.) Because we never find the apostles using their coercion upon any man but the express breakers of a divine commandment, or the public disturbers of the peace of the church, and the established necessary order.

25. (2.) Because even in those things, which were so convenient, that they had a power to make injunctions, yet the apostles were very backward to use their authority of commanding; much less would they use severity, but entreaty. It was St. Paul's case to Philemon[o] before mentioned; "Though I might be much bold in Christ to enjoin that which is convenient; yet, for love's sake, I rather entreat thee."

26. (3.) In those things where God had interposed no command, though the rule they gave contained in it that which was fit and decent, yet if men would resist, they gently did admonish or reprove them, and let them alone. So St. Paul in case of the Corinthian men wearing long hair; "If any man list to be contentious, we have no such custom, nor the churches of God:" that, is let him choose; it is not well done, we leave him to his own liberty, but let him look to it.

27. (4.) If the bishop's power were extended further, it might extend to tyranny; and there could be no limits beyond this, prescribed to keep him within the measures and sweetness of the government evangelical: but if he pretend a divine authority to go further, he can be absolute and supreme in things of this life, which do not concern the

[o] Philem. 8, 9.

Spirit, and so fall into dynasty: as one anciently complained of the bishop of Rome, and change the father into a prince, and the church into an empire.

28. But this hinders not, but that the power of spiritual rulers may yet extend to a further use, not by a direct power of command, or of giving laws, but by all the indirect and collateral ways of obligation, as, of fame, consent, reputation of the man, the reverence of his person, and the opinion of his wisdom and sanctity, by voluntary submission, and for the avoiding scandal: when any of these causes of action or instruments of obligation do intervene, the bishop does not directly bind, but the people are bound: and their obligations from all these principles, are reduced to two heads. "The matter of scandal;"—in which case, under pain of sin, they must obey in all lawful things, when by accident and the concourse of emergent causes it is scandalous to disobey. And the other is, "Their own consent:"—for however it be procured fairly, if they once have consented, they are become a law unto themselves, and so they remain, till his law suffers diminution, as other laws do that die:—of which I am afterward to give account.

There is one way more, by which ecclesiastical laws do bind; but this is the matter of the next rule.

RULE V.

When the Canons or Rules of the ecclesiastical Rulers are confirmed by the supreme civil Power, they oblige the Conscience by a double Obligation.

1. ΤΟ' *νομοθετεῖν ἀνεῖται τοῖς βασιλεῦσι*, say the Greek lawyers: "The power of making laws,"—viz. of determining things not commanded by God, or of punishing prevarications against God's laws or their own,—"is granted to kings." And therefore as secular princes did use to indict or permit the indiction of synods of bishops; so, when they saw cause, they confirmed the sentences of bishops and passed them into laws. Before the princes were Christian, the church was governed by their spiritual guides, who had authority from God in all that was necessary, and of great conveniency

next to necessity; and, in other things, they had it from the people, from necessity and from good-will, by hope and fear, by the sense of their own needs, and the comfort of their own advantages. It was 'populus voluntarius,' the people came with free-will-offerings, and were at first governed by love, as much as now they need to be by fear and smart. But God was never wanting to his church, but made provisions in all cases and in all times. Of that which was necessary, Christ left in his ministers a power of government: and in that which was not primely necessary, but emergently and contingently came to be useful and fit, he only left in his ministers a power to persuade; but he gave them an excellent spirit of wisdom and holiness, by which they did prevail, and to the people the spirit of love and obedience: and these together were strength enough to restrain the disobedient. For as, in the creation, there was light before the sun, that we might learn that the sun was not the fountain of light, but God;—so there was a government in the church, even before the princes were Christians, that the *support and* ornament of God's church might be owned as an efflux of the divine power, and not the kindness of princes. But yet as when the light was gathered and put into the body of the sun, we afterward derived our light from him, and account him the prince of all the bodies of light: so when the government external of all things was drawn into the hands of princes becoming Christians, to them the church owes the heat and the warmth, the light and the splendour, the life of her laws, and the being of all her great advantages of maintenance and government. At first the church was indeed in the commonwealth, but was reckoned no part of it; but as enemies and outlaws, were persecuted with intolerable violence; but when the princes of the commonwealth became servants of Christ, they were also nurses of the church, and then it became a principal part of the republic, and was cared for by all her laws.

2. For this first way was not like to last long; for good manners soon corrupt: and a precarious authority, though wise and holy, useful and consented to, was not stable as the firmament of laws that could compel: and yet it became necessary, by new-introduced necessities, that there should be rules and measures given in things relating to the church,

concerning which God himself had given no commandment; as concerning order in synods and conventions ecclesiastical, the division of ecclesiastical charges, the appointment of under-ministries in the church, the dispensation of revenues, the determination of causes and difficulties in manners of speaking or acting, and whatsoever was not matter of faith or a divine commandment; in all that new necessities did every day arise, and the people were weary of obeying, and the prelates might press too hard in their governing, or might be supposed to do so when they did not, and the people's weariness might make them complain of an easy load; and it was not possible well to govern long by the consent of the people who are to be governed. It pleased God to raise up a help, that should hold for ever, and when the princes became Christian and took care of all this, that is, of all the external regiment of the church, of all, that was not of spiritual nature and immediate necessary relation to it, then the ecclesiastical laws were advised by bishops and commanded by kings; they were but rules and canons in the hands of the spiritual order, but laws made by the secular power. And now these things are not questions of the power of the clergy, but a matter of obedience to kings and princes.

3. These canons, before the princes were Christian, were no laws further than the people did consent; and therefore none but the men of good-will, the pious and the religious children of the church, did obey: but now that princes have set the cross upon their imperial globes and sceptres, even the wicked must obey: all are tied by all manner of ties, and all can be compelled that need it. These ecclesiastical laws so established, the Greeks call *διατάγματα, ϑεσπίσματα, χρυσόβουλλα, κυροῦντα τὰς συνοδικὰς ἀποφάσεις*, "edicts, orders, and golden bulls, commanding or making into laws the sentences and rules of synods."—The *ἀποφάσεις*, that is the effect and production of bishops in their conventions, that is, they have "jus pronunciandi quid sanctum, quid non," "a right of pronouncing what is for God's glory and the interests of religion, and what not:" but the *τὸ κῦρος καὶ τὸ κράτος*, "the establishment and the command" belong to princes. The synod hath a *κρίσις* or "a right of judging," but the *ἐπίκρισις* or 'confirmation' of it into a law belongs to

the civil power. So we find in a synodal epistle 'de non avellendis episcopis à sua metropoli;' εὑρέθη τι καὶ τοιοῦτον γενόμενον κρίσει συνοδικῇ, καὶ ἐπικρίσει βασιλικῇ κυρωθὲν, "Some such thing as this hath been found done by the decree or judgment of a synod, but established by after-judgment of the king."—To the same sense are those words of ἐπιστάλματα applied to the bishops' canons, and προστάγματα to the king's edict upon them: and therefore the emperors and princes were said ἐπισφραγίζειν τὰ κεκριμένα [a], "to put the seal of their authority to the decrees of the fathers [b]."

4. For it was never known in the primitive church, that ever any ecclesiastical law did oblige the catholic church, unless the secular prince did establish it. The Nicene canons became laws by the rescript of the emperor Constantine, says Sozomen. He wrote an epistle, and commanded that all churches should keep Easter by the canon of the Nicene fathers, and made it capital to keep any of the books of Arius. When the council of Constantinople was finished, the fathers wrote to the emperor Theodosius, and petitioned "ut edicto pietatis tuæ confirmetur synodi sententia," "that he would be pleased to confirm the sentence of the council by his edict:"—"Ut quemadmodum literis, quibus nos vocabas, ecclesiam honorasti, ita etiam decreta, communibus suffragiis tandem facta, sigillo tuo confirmes." The emperor had done them favour and honour in calling them together, and they petitioned he would also confirm what they had agreed upon, and by his zeal make it authentic. The confirmation of the canon and decrees of the great Ephesine council by the emperor is to be seen at the end of the acts of the synod: and Marcian, the emperor, wrote to Pelladius his prefect, a letter, in which he testifies, that he made the decrees of the council of Chalcedon to become laws. For having forbidden any person to make assemblies and orations of religion in public, he adds this reason, "Nam et injuriam facit reverendissimæ synodi judicio, si quis semel judicata ac recte disposita revolvere et publice disputare contenderit; cum ea quæ nunc de Christiana fide à sacerdotibus, qui Chalcedone convenerunt, per nostra præcepta statuta sunt," &c. "For he does injury to the judgment of the most reverend synod, if he shall unravel and dispute the things, which were there judged and

[a] In Act. Concil. Constantinop. [b] Vide chap. 3. rule 8. hujus libri

rightly disposed; since those things appointed by the bishops, met at Chalcedon, concerning Christian faith were commanded by us; or were appointed by our commandment"—"Nam in contemptores hujus legis pœna non deerit," "They that despise this law, shall be punished."—Thus also the fathers of the fifth general synod petitioned Justinian to confirm and establish their canons into a law, in the same form which was sent to Theodosius by the bishops of the general council at Constantinople before mentioned. The same prince also published a novel[c] in which he commands "vim legum obtinere ecclesiasticos canones à quatuor synodis, Nicena, Constantinopolitana prima, Ephesina prima et Chalcedonensi expositos et confirmatos;" "that all the laws which were made or confirmed by the four last general councils, should have the force of laws: that is, all their own canons, and those of Ancyra, Gangra, Antioch, and Laodicea," which were then adopted into the code of the universal church, though they were but provincial in their original.

5. So that now, upon this account, the ecclesiastical laws are as obligatory to the conscience, as those which are made in a civil matter; and there is no difference but in the matter only: but for that there will be some advantage; for as the civil power hath authority in ecclesiastical matters, so the spiritual power hath a share in the legislative: the matter is handled by the ecclesiastics, and the law is established by the secular. And, therefore, if it be thought, that the cognizance of these things is not proper for seculars, those that think so, may be satisfied that the bishops have judged the thing already; and they that think the bishops have no power of making the law, may learn to obey, because the prince hath by his legislative established it. So one hand helps another, and both are lift up to God, but will fall heavy upon the disobedient.

Sect. 2. *Of Censures ecclesiastical.*

I have given the general measures of the legislative power of the ecclesiastical state: next to this I am to account concerning their coercive, sect. 2; and then return to the inquiries after the more particular subjects of this power,

[c] Vide Concil. Tolet.

sect. 3; and their particular laws and their obligations upon the conscience in external order, sect. 4; and in matters of faith, sect. 5.

RULE VI.

Kings and Princes are, by the Ties of Religion, not of Power, obliged to keep the Laws of the Church.

1. THE laws of the church I have already divided into such which she makes by a divine authority, such which concern our essential duty, in which she hath power to command and rule in her appointed manner: and into those which are external, political, and contingent, such which princes if they please, make up into laws, but the spiritual power cannot. In the first sort, kings and princes are as much tied to obedience as the meanest Christian subject. For the king, though he be supreme in government political, yet his soul is of Christ's fold, and to be conducted by a proper shepherd. It is no contradiction that the same person should be supreme, and yet obey in another regard in which he is not supreme. The captain that fights in a ship, commands the soldiers in chief, but himself obeys the master; and the safety of the soldiers depends upon them both: for they are distinct powers in order to distinct purposes. For kings must give an account for bishops, that they live well in the political capacity, and bishops for kings in their spiritual; and therefore they must obey each other; and we find that persons of greatest honour in the days of peace, serve under captains and generals in the time of war; and when Themistius, an excellent philosopher, who from his chair did rule and dictate wise things, and give laws to the understandings of his auditors, and was admired by his prince, was by the emperor Constantius advanced to a prefecture, in an excellent epigram[a] he says to himself, Δεῦρ' ἀνάβηθι κάτω· νῦν γὰρ ἄνω καταβῆς, "Now ascend downwards, for thou hast already descended upwards." The same dignity is above and below in several regards. But in this there is no difficulty, because the souls of princes are of equal regard, and under

[a] Brunck. Anthol. T. ii. p. 404.

the same laws of God, and to be cleansed and nourished by the same sacraments, and tied to the same duty by the commandments of God as any of the people; in this there is no difference.

2. But in matters not of necessary duty, not expressly required by God's law and the necessary, unavoidable, immediate consequents of it, there being no laws but what themselves have made, they are no otherwise obliged than by their own civil laws: of which I have already given account. This thing is particularly noted by Balsamo upon the sixteenth canon of the council of Carthage, who affirms, that by reason of the power given to princes from God, they are subject neither to their laws nor canons. And of this latter he gives this instance, that although by the twelfth canon of the council of Chalcedon it was decreed, that no city should for the future acquire the title of a metropolis; yet after this 'Justinianea prima' was made an archiepiscopal seat, and had metropolitical rights, to the diminution of the former rights of Thessalonica: but Balsamo instances in divers others. There was an ancient canon of great celebrity in the church, that every city should have a proper bishop: but the bishops of Isauropolis and Tolma, besides their own, had others; so had the bishops of Litchfield and of Bath in England: they had other cities under their jurisdiction which had no bishops in propriety. For if kings did give limit to their diocesses, they might divide again, and give a new limit; since it is not in kings as it is in people. The power that goes from the people, is like water slipped from their hands; it returns no more, and does not abide in the first place of its efflux; but when an act of power passes from the king, any deputation or trust, any act of grace or delegation of jurisdiction, it is like heat passing from the fire, it warms abroad, but the heat still dwells at home. It is no more the less, than the sun is for emission of its beams of light.

3. And this is apparent in all the privileges and concessions made to the church, which are as revocable as their duty is alterable. For princes are so far from being obliged to perpetuate such rights which themselves have indulged, that it is a ruled case, and the Greek fathers[d] sometimes

[d] Leunclav. Βασιλικ.

make use of it to this very purpose: Ὁ δωρησάμενος βασιλεὺς, εἰ ἀχαριστίας παρεμπέσοι λόγος, ἀναλαμβάνει τὴν δωρεὰν, "If a king hath given a gift, he may recall it, in case the beneficiary proves ungrateful."—The same with that in the feudal laws of the Lombards, "Feudum amittit, qui feudum sciens inficiatur:" "If he wittingly denies the fee, or refuses homage, he loses it."—But this depends upon the reasons of the second rule in the third chapter of this book.

4. But although in strict right the king's laws oblige him not; yet because 'de bono laudabili' he is, in the senses above explicated, obliged to his civil laws,—therefore much more is he tied to the observations and canons of the church, as being specifications of religion, instances of love to God, significations of some internal duty, or outer guards to piety, great examples to the people, and honours to the church of Christ, and that which above all external things will enable the rulers and guides of souls to render their account with joy; and the king shall never so well promote the interests of religion by any thing, as by being himself subject to the religion: for who will murmur at those laws which the king himself wears in a phylactery upon his forehead and his wrists? "Facere recte cives suos princeps optimus faciendo docet; cumque sit in imperio maximus, exemplo major est," said Velleius Paterculus[e]. This is most of all true in religion, whose laws look too like policy, when they are established only by penalties; but they are accounted religion, when they are made sacred by example. To which purpose is that of Tacitus[f]; "Obsequium inde in principem et æmulandi amor validior, quam pœna ex legibus et metus:" "It is duty to our prince, and it is our honour to imitate the example of the prince; and these prevail more than penalties."—"Hæc enim conditio principium, ut quicquid faciant, præcipere videantur," says Quintilian[g]. Their example is the best law.

Sic agitur censura, et sic exempla parantur,
Si judex, alios quod jubet, ipse facit.

So laws and judgments and good manners are best established, when, by the examples of kings and supreme judges, they are made sacred.

[e] Lib. ii. 126. 5. Krause, pag. 539.
[f] Annal. iii. 55. Ruperti, pag. 165.
[g] Declam. 4.

Add to this, that the laws of religion have, most of them, the warranty of some internal grace or other, and are to be reckoned in the retinue and relation of that virtue; and therefore cannot, in many instances, be broken without some straining of our duty to God, which is, by the wisdom and choice of men, determined in such an instance to such a specification. But this is to be understood only in such laws which are the προφυλακαὶ, 'out-guards,' the exercises of internal religion, not in the garments and adornments of the relatives and appendages of religion. If a prince despises the festival of the church, nothing but a competent reason will excuse him from being, or at least from seeming, irreligious. And in whatsoever instance he hath made or consented to laws of religion, if by them he can suppose the people may serve and please God, he is much more obliged than they; not by the duty of obedience, for he owes none, but by the virtue of religion: for besides that his soul must live or die by greater measures and exactions of those virtues, which bring the people unto heaven, every action of his that deserves an ill report, it is but scandal in the lesser people, but to him it is infamy. For the king's escutcheon is blazoned otherwise than that of his subjects: the gentry by metals, the nobility by precious stones, but kings by planets. For in a king there is nothing moderate. "Curandum est qualem famam habeat, qui qualemcunque meruerit, magnam habiturus est," said Seneca[b]: "His fame, let it be good or bad, it will certainly be very great."

5. The sum is this: kings are so tied to their own ecclesiastical laws, that they must take care they be not despised by their example, that the religion designed by them be promoted, that that part of the commonwealth which most secures to them obedience and peace, and procures them the most and greatest blessings, be not discouraged or disadvantaged: but they are not so tied, that every act of omission is imputable to them, though it have no other cause but the use of his liberty. For in this his duty differs from that of his subjects: for obedience which the subject owes, is a part of justice, and that hath no degrees, but consists in an indivisible point, where it can be practised, and where it can be understood; for he is unjust, that does one act of injus-

[b] De Clement. lib. 1. cap. 8. §. 1. Ruhkopf. vol. 1. pag. 446.

tice. But religion hath a latitude of signification and instances, and a man may be very religious who yet does not keep a saint's day, where by obedience he is not bound; which is the case of kings. Therefore what Seneca said of the cares of kings, may be said of the external observations of the laws of religion; "Remissum aliquando animum habebit, nunquam solutum;" "He may remit something of the strict observance, but he must never esteem himself wholly quit."

6. But this is to be understood only in externals and rituals; concerning which one said excellently, "Pleraque ex iis magis ad morem quam ad rem pertinent;" "They are nothing of the substance of religion, but only appendages," and manner, and circumstances: and therefore "sapiens servabit ea tanquam legibus jussa, non tanquam Diis grata," "a wise man will observe rituals, because they are commanded by laws, not that they are pleasing to God:"—they are the words of Seneca quoted by St. Austin[h]. Since therefore these are wholly matters of obedience, kings are free, save only when they become bound collaterally and accidentally. But in matters of essential duty, the king hath equally with his subjects no liberty, but much more direct duty, and many more accidental obligations. The whole affair is well enough expressed by Cicero[i]: "Parendum est religioni, nec patrius mos contumaciter repudiandus:" "The prince must obey religion, and he must not despise the customs and the manners of his country;" that is, in the better words of our blessed Saviour, "These things they ought to do, and not [*wholly*] to leave the other undone."

7. But the liberty of princes in these ecclesiastical laws of order, and circumstance, and ritual observances, is very apparent in the practice of the Hebrew kings, who yet possessed this liberty, that even, in the rituals of the divine ordinance, they sometimes did dispense. Thus David ate the shew-bread; and Hezekiah permitted some that were unclean to eat the passover, otherwise than it was written[k]: only Hezekiah prayed to God not to impute it to them, and gave them way: and under his reign the Levites did kill the sacrifice twice, which was only lawful for the priests to do.

[h] Lib. 6. de Civit. Dei. [i] De Divin. ii. 33. Davis et Rath. pag. 214.
[k] Levit. vii. 20. 2 Chron. xxx. 18.

But it was a favourable case, because the priests[1] were but few, and the sacrifices were very numerous: and if it be (as the Greek expression is) lawful, χαλάσαι τι τῆς ἀκριβείας, "to loose a little of the exactness" of the rituals of the divine appointment, it is certain, where the man is the lawgiver, he can much more use the liberty. But it is not good to do all that is lawful.

RULE VII.

It is not lawful for the ecclesiastical Power to excommunicate Christian Princes, or the supreme civil Power.

1. In the sentence and penalty of the lesser excommunication, as it is used in the church, there are three portions of evil. In one, the bishop is the author or minister,—in the other, the people,—and in the third, the prince. The first is a denying to minister the holy mysteries. The other is, a withdrawing from the communion and conversation of such a person: which although it be done most of all in the greater excommunication, yet it is done also in some proportion in the less, for emendation of the erring brother; not for extermination, as appears in the apostolical precept given to the church of Thessalonica[m]. And the last is, supervening temporal punishments, by which princes use to verify the just sentences of the church against refractory criminals.

2. Concerning the last, it is certain it wholly is owing to the power and favour of the prince; who, by that favour, is not supposed to lay violent hands upon himself, who, if he did, could quickly take them off again: however, the church inflicts not them by her own authority, but by that of the prince, who will not, like the tree in the fable, lend a stick to the hatchet, to be hewn down or hurt by it afterward.

3. But then concerning that part which is inflicted by the people, which is abstinence from the society of the offender till he repent and make amends, and get his pardon,—it is infinitely certain that the church cannot inflict that on kings; because it is destructive of the duty which the people

[1] Levit. i. 5. 2 Chron. xxix. 24. xxx. 17. [m] 2 Thess. iii. 6. 14, 15.

owe to their prince,—and of the rights, which the prince hath from God independently from the religion.

4. Besides this, nothing ought to be done to the dishonour of the supreme power, to whose happy government fame is almost as necessary as power: and the imposing upon them disgraceful penalties is κρίσις βλασφημίας, "a note of dishonour and blasphemy;" for they are to esteem their king as a heathen and a publican, from whose society they are to estrange themselves as from a pestilence. "Inviso semel principe, seu bene seu male facta premunt," saith Tacitus[n]. If he once fall into such a calamity and dishonour, whether he do well or ill afterward, it shall be evil to him.

5. And yet further; the power of assemblies and public meetings is wholly by the laws and permission of kings; and nothing is more unreasonable, than that any man should interdict kings from public meetings, by whom himself hath leave to meet publicly. And therefore we find imperial laws making provisions in this very particular, and so far from being subject to any thing of this nature, that the emperors gave orders and strict measures to the bishops when they should, and whom they should or should not, separate from churches and communions[o]. For even in those actions of bishops, in which themselves have liberty and divine authority, yet the supreme civil power hath external jurisdiction. Thus Mauritius the emperor commanded Gregory the Great, bishop of Rome, to communicate with John of Constantinople; and anciently, in France, the princes were wont to compel the clergy to officiate; and when the pope had interdicted the kingdom of England, the king compelled the priests and bishops to open their churches: so it is in Holland, and so in Venice, and so in all places, where kings know their power and their interest and their duty.

6. For if excommunication be only an act of caution and prudence, it is very great prudence not to involve kings in it, lest they be provoked by the evil usages of the church; and if it be nothing else, certainly it cannot be necessary to be done at all. But if it be an act of external jurisdiction,

[n] Histor. 1. cap. 7. Valp. ed. vol. 3. pag. 14.

[o] As is to be seen lib. 30. Cod. de Episc. et Clericis, and in the 123d novel of Justinian.

it derives from kings, and therefore they are not under it, but over it: for no coercion in the hands of man ought to touch those, who are reserved only for the judgment of God. "Apud Serenissimum Regem opus est exhortatione potius quam increpatione, consilio quam præceptis, doctrina quam virga," said Hildebertus the bishop: "The king is to be exhorted, not reproved; counselled, not commanded; and to him not a rod, but doctrine is to be used:" and Ivo, bishop of Chartres [p], said the same thing. Kings, if they abuse their power, are not to be provoked; but in case they refuse the admonition of bishops, they are to be left to the divine judgment; where they will be punished the more severely, by how much they were the less obnoxious to human monitions. So Gregorius Turonensis; "Si tu excesseris, quis te corripiet? Si autem nolueris, quis te damnabit, nisi is qui se pronunciat esse justitiam?" He spake to King Chilperic:—"If thou beest exorbitant, who shall correct thee? If thou refusest, who shall condemn thee, but he only who is the everlasting righteousness?" For if St. Paul [q] gave in charge to Timothy, that each person should receive an impression and emanation from the pastoral charge according to his quality, and commanded that he should "not rebuke an elder, but entreat him as a father;" much less would he have permitted any to have punished the father of the country and his own superior, and him who is less than none but God, and by whom himself can rule others in external actions, and who, in these very administrations, is superior, and can give laws, and inflict penalties, and is judge and the remedy of all abuses.

7. And if concerning this inquiry we consult the doctrine and practices of the fathers in the primitive and ancient churches, we shall find that they never durst think of excommunicating kings. They had no power, no right, to do it. "Nam sacerdotis tantum est arguere, et liberam præstare admonitionem," saith St. Chrysostom [r]; "Priests can only reprove and argue, and give a free admonition:" and therefore the first supreme prince that ever was excommunicated by a bishop, was Henry the emperor, by Pope Hildebrand.

8. But against this that I say, now the doctors of the

[p] Epist. 171. [q] 1 Tim. v. 1.
[r] Homil. 4. de Verbis, Isai. Vidi Dominum.

church of Rome make a mighty outcry, saying that Philip the first Christian emperor was excommunicate and thrust amongst the penitents; that Babylas the bishop of Antioch thrust the emperor Decius with his hands against his breast from the doors of the church; that Athanasius excommunicated the prefect of Libya, and St. Basil commanded in his diocess that he should be avoided; that St. Ambrose did excommunicate the emperor Theodosius; that St. Chrysostom forbade Eudoxia the empress to enter into the church-doors; that Innocentius excommunicated Arcadius; so did Synesius to Andronicus the prefect, St. Austin to Bonifacius, Pope Symmachus to Anastasius the emperor, Pope Vigilius to Theodora the empress, Gregory II. to the Exarch, Gregory III. to Leo Isaurus. Instances[s] enough, if they be right and true, to show that the fathers were of another mind than the rule pretends.

9. But in this heap I must separate what is true and certain from what is false and uncertain, and give an answer to them, and the rest will not trouble us. The story of the emperor Philip is vehemently suspected: but if it were true, yet it was no excommunication, but his own submission to the discipline of penitents; to which, saith Eusebius, he was persuaded by the bishop.—And the same was the case of St. Ambrose to Theodosius[t]: the prince was persuaded to it, but it was only to do his repentance after the manner of the penitents in those days; the bishop only refused to celebrate in the presence of the emperor, if he would not give testimony of his repentance towards God. This the emperor did, because he was a good man, and things were then in such a conjunction, that there was nothing amiss: but St. Ambrose could not have verified his power, if the emperor had been unwilling, and the emperor did no more than was necessary. But St. Ambrose said, that he had his warrant to use the emperor so, from a vision. His warrant was extraordinary: for he had no ordinary power or commission. The excommunications of the prefects by St. Athanasius, St. Ba-

[s] Euseb. lib. 6. cap. 27.—Chrysost. adv. Gentes.—Basil. ep. 47.—Paulin. apud Baron. A. D. 387.—Theod. lib. 5. cap. 17.—Leo. Aug. Orat. de Vita Johan. Chrysostom.—Niceph. lib. 13. cap. 34.—Aug. Epist. 6. in Append.—Greg. lib. 2. ep. 36.—Anastas. Biblioth, in Greg. II.

[t] Ultrò à communione abstinuisse Theodosium aiunt Ruffinus lib. 2. cap. 18. et Waremund. ab Erenb. cap. 2. de Subsid. Reg. n. 35. et seq.

sil, St. Austin, Synesius, and Gregory II., do not come home to the inquiry, because the prefects were but subjects, and had not the privilege of supreme princes. The fact of Babylas to Decius was not excommunication: for Decius was a heathen, and the church hath 'nothing to do with them that are without;' but Babylas was zealous and fierce, and acted with the spirit of a martyr, to which he hastened by his fervour. St. Chrysostom indeed did that to Eudoxia which did not become him, and which he had leisure and cause enough afterward to repent: he did in anger, what himself, in the sober hours of his life, professed to be more than he could justify. That of Innocentius to Arcadius is of no credit, and so is that of Symmachus to Anastasius, as being only seen in the epistles of the popes of Rome; concerning which there is nothing certain, but that very many of them are certainly spurious. The pretended excommunication of Theodora by Vigilius hath no testimony. "Contra Theodoram et Acephalos Vigilius pronunciavit damnationis sententiam," said Gregory [u]. But this was nothing but a condemnation or rejection of the heresy of the Acephali, with which she was a partaker. And the like was the case of Leo Isaurus; it was 'sententia damnatoria,' 'a condemnation of his opinion,' called by Zonaras ἀνάθεμα συνοδικόν. But these things are only pretended to make noises. Pope Hildebrand was the first, that ever did any thing of this nature; as is expressly affirmed by authors of great credit, by Otho Frisingensis, by Godefridus Viterbiensis, and by Onuphrius, who counted all the other pretences either fabulous or to no purpose.

10. But yet there is a third portion of excommunication, which is a denying to administer the holy communion to princes of a scandalous and evil life; and concerning this there is no question but the bishop not only may, but in some cases must, do it. "Nolite dare sanctum canibus," said Christ, "Give not that which is holy to dogs;" and cast not pearls before swine. But this is not an act of jurisdiction, punishment, or coercion, but of charity to the prince and duty in the bishop. It is just as if a physician should refuse to give drink to an hydropic patient; he may have it, if he will be willing to die; but if the other refuses his ministry

[u] Lib. 2. ep. 36.

in the reaching it, he is charitable and kind, not imperious and usurping. For whatsoever is in the ecclesiastical hand by divine right, is as applicable to him that sits upon the throne, as to him that sits upon the dunghill. But then the refusing it must be only by admonition and caution, by fears and denunciations evangelical, by telling him his unfitness to communicate, and his danger if he do: but if after this separation by way of sentence and proper ministry the prince will be communicated, the bishop hath nothing else to do but to pray, and weep, and willingly to minister. St. Gregory's case with Mauritius the emperor was like this. The prince commanded him to be the minister to hand an unlawful edict to the churches: the bishop told the prince it was a sin which the prince went about, prayed, admonished, declaimed, did all that he could to hinder it, and then obeyed; that is, he did all he could to God, by using all this authority, the word of his proper ministry, and then all that he owed to the prince, by submitting his external ministry to his command. The unlawful proclamations and edicts of a true prince may be published by the clergy in their several charges; but yet they must not conceal from the people any thing of their duty, nor yet from their prince when they can declare it. It was also the case of Saul and Samuel[x]. The King desired Samuel to join and communicate with him in the service of the Lord. He with the liberty of a prophet, refused at first, and declared the heinousness of Saul's sin; but at last, when the King's will was pressing and importunate, Samuel did obey his voice and did join with him. Ivo bishop of Chartres tells, that in such cases, where princes will not comply with the customs and disciplines of the church, the bishops must do their duty by saying, "Nolo te fallere; introitum hujus visibilis ecclesiæ periculo tuo te habere permitto. Januam regni cœlestis tali reconciliatione tibi aperire non valeo."—"Sir, I will not deceive you; at your peril be it, if you will come into the holy place to partake of holy mysteries. I declare to you, that this ministry (of the communion) is not any reconciling of you to God:" I cannot do that, unless you repent. But the reason of this is wholly upon this account, because the ecclesiastical state hath no proper coercion by divine right, but is a minister of

[x] 1 Sam. xv. 25.

the divine coercion, of spiritual promises and threatenings; their power is spiritual and internal, it hath its effort upon the spirit, and not upon the outer man, and therefore is to proceed by methods fitted to the spirit, that is, by reason and argument, by the fear of God, and the terror of his threatenings, by the love of God and the invitation of his promises. But all the ministries and compulsions about the external is the gift and leave of princes; and therefore it descends, but ascends not, unless they please; of which by and by. "Admoneri quidem possunt, increpari, argui à discretis viris: quia quos Christus Rex regum in terris vice sua constituit, damnandos et salvandos suo judicio reliquit," said the church of Liege in their epistle to Paschalis: "Kings may be admonished and reproved and argued by discreet persons; but they whom Christ the King of kings hath appointed to be his vicars on earth, are entirely to be left to his judgment."

Upon the likeness of matter it is to be inquired,

11. Whether the guides of souls have a proper and spiritual power to enjoin penances or ecclesiastical satisfactions to a prince, that hath sinned publicly.

12. The answer to this depends upon the premises. For the church when she enjoined public satisfactions, did separate from the communion those, whom they thrust into the place of public penitents. Now if the bishops may not separate the prince from the communion, then neither impose those penances to which that separation did minister: but this is one of the censures of the church, and part of that coercitive power which she hath by the permission of princes and the voluntary submission and consent of good people: and therefore it cannot be done, unless the prince please. In the primitive church, when this discipline was in godly use, none could be compelled to it, but by conviction in public, or private confession, and in both cases their own consent was either express or implied; and therefore much less can this be done to the supreme power whether he will or no. "Imperatoria unctione pœnitentiam tolli," said Balsamo[y]; "From the suffering penances, kings are quitted by their anointing:" and upon those words of David, "Against thee only have I sinned," St. Ambrose hath this note,—"He was a king, he was held by no laws, because kings are free from

[y] Ad can. 12. synodi Ancyranæ.

the bands of delinquents;" "neque enim ullis ad pœnam vocantur legibus tuti imperii potestate," "neither are they by any laws called to penance, being safe by the power of their empire."—And since the primitive church was infinitely restrained in imposing public penances on bishops, for the honour of their order and dignity of their persons, we shall the less need to doubt of their opinion or practices concerning kings.

13. But yet we find, that some excellent good princes did submit to such imposition of penances, and did abstain from the public communions, till they had given testimony of their repentance towards God. So the emperor Philip, προθύμως ἐπειθάρχησε, he of his own willing mind placed himself amongst the penitents. So did Theodosius, under the discipline and conduct of St. Ambrose. But these things are but cautiously to be drawn into example, and as they give no power to the bishop, so very seldom do they advantages to kings. Henry the emperor was a sad example of it; for his affairs went into diminution, and his person into contempt, and his power into pupillage, as soon as ever he had done penance at Canusium barefooted, in a cold winter, for three days together, and had endured the insolency and scorn of Hildebrand. And when kings made themselves less, the bishops became greater without any good to the church, but not without much detriment to religion.

14. 'But neither may princes be reproved publicly.'—For if he will not be obedient to the will of God in the voice of his ministers publicly teaching, or privately admonishing, and prudently reproving; he that goes about to reprove him publicly, intends, by that means, by some indirect coercion, to compel him, either by shame or by fear; neither of which ought to be imposed by a subject on the prince. For it is to be observed, that reproof is a part of empire and superiority, and differs not from teaching, save only that it is 'manus linguæ,' it is 'the hand of the tongue,' not the voice only. He that reproves, teaches only minors: and though kings are so in respect of the conduct of their souls, yet it must not be done to them but very sparingly, because it can very hardly be done without diminution of their dignity; and teaching or declaring their duty will do their work for them if they please, and if they do not please, he that

reproves, will do the prince no good, but he shall hurt himself, and shall not be a martyr, when he is smitten. Let no man therefore pretend zeal for God in excuse of any boldness more than priestly towards kings. For the work of God is oftentimes better done by a gentle hand, than by a strong.

> —— peragit tranquilla potestas
> Quod violenta nequit; mandataque fortius urget
> Imperiosa quies —— [1].

And if we esteem reproof unseasonable where it is likely we may do hurt, and where it is not likely we shall do good, much more is not this course prudent to be used to kings, who may be provoked by your ungentle sermon, or may be hardened by your fire. For every prince hath not the gentleness of Antigonus, patiently to hear himself reviled: but if he had, yet it was but reason that Antigonus spake, when he bade the soldiers if they would revile him, to go further off[a]. And such men should do well to consider, how ill themselves would take it, if they were publicly in the pulpit called schismatics or incendiaries. But how and if the people be as zealous as the priest, and think it lawful to call their king by all the names of reproach, which they hear in the sermons of the ministers? And if the bishop calls a spade a spade, it is very possible the people may do so too, for they are soon taught to despise their rulers; and then it is to be remembered what Aristotle says, Ἐκ τοῦ καταφρονεῖσθαι πολλὰς γίγνεσθαι τῶν καταλύσεων· If they once come to despise their prince, they will soon unclasp his royal mantle.

15. It is true, that the ministers of religion are 'stewards of the mysteries' of God and 'ambassadors for Christ:' and though I cannot say, that they who, upon this account, think they have power publicly to reprove vicious kings, and in plain language give names to their vices and publish their shame, do overvalue their dignity, for that cannot easily be done; yet I say they use it incompetently and imprudently; for the effect of this power and dignity is not to upbraid, or to disgrace, but to edify and do good to all men according to their capacity: and therefore St. Paul, when he had declared his office and commission to be Christ's ambassador,

[1] Claud. de Fl. Moll. Theod. Cons. 239. Gesner, vol. 1. pag. 219.

[a] Οἷον Ἀντιγόνου τὸ πρὸς τοὺς στρατιῶτας, ὅτι τοὺς παρὰ τὴν σκηνὴν λοιδοροῦντας αὐτὸν ὡς οὐκ ἀκούοντα, τὴν βακτηρίαν ὑποβαλὼν ἔξω, Παπαὶ (εἶπεν) οὐ πορρωτέρω ποι τραπόμενοι κακῶς ἐρεῖτε ἡμᾶς; Plut. de Ira Cohib. Xyland. tom. 2. pag. 457. (J. R. P.)

he adds, as the full, express, and proper issue of that power, "We pray you, in Christ's stead, to be reconciled to God."

16. The old prophets took liberty, and were bold in their reproofs, and troubled kings; and the people sometimes were stirred too much upon such accounts: but when the prophets were charged with sedition, they only gave in answer the express commandment of God. And therefore it was that Amos[a], being very bold, was bidden not to "prophesy any more at Bethel, because it was the king's chapel and the king's court:" and he was forced to plead a special mission; which the priests had not, and therefore we do not find that ever they used any such license and freedom of reproof, except in such cases in which they also became prophets; as it happened to Jehoiada[b]: and that is the very case of the ministers of the gospel, who, unless they had a special commission, must teach according to the duty and obedience, the gentleness and prudence, of the religion; lest it be said to them, as was said by King Amaziah[c] to a bold man that spake openly to him, "Have they made thee the king's counsellor; cease thou, why should they smite thee?"

17. Now in this there can be the less doubt, for they mistake it, that suppose this to be a question of duty; it is only an inquiry after the manner of doing the duty: and therefore although, for the former reasons, this manner of doing their duty is not fit, yet it is necessary that the duty should be done. For "miser est imperator, cui vera reticentur." No misery is greater, than that kings shall not be taught their duty. They must be taught it all: and in this no liberty, if it be prudently conducted, can become licentious. To which purpose, the bishops and ministers of religion must thus comport themselves to kings.

18. (1.) Let the public doctrines be instructive, but not apt to raise suspicion of the prince. (2.) Let it be in things certain and of evident and apparent duty. (3.) Let no doctrines be fitted to private interests and partialities in the state. (4.) Let no reproof of kings be in pulpits, for it is uncivil towards any, "ut quis crimen audiat eo loco, quo refellendi copia non sit," as the Roman said[d]; that a man should be reproved in that place, where, for reverence and religion's sake, the man

[a] Amos, vii. 10. 13.
[b] 2 Chron. xxiv. 20.
[c] 2 Chron. xxv. 16.
[d] De Maledic. cap. 1.

may not answer for himself. And therefore Clement III. caused a clergyman to be punished, because "multis coram astantibus, verba quædam in depressionem officii et beneficii nostri protulit," "he spoke words in a public audience tending to his disparagement:" and the emperors[a] Theodosius, Arcadius, and Honorius, made a law, "si quis modestiæ nescius, et pudoris ignarus, improbo petulantique maledicto nomina nostra crediderit lacessenda," &c. "that if any man, forgetting shame and modesty, thought fit to dishonour the emperors, he should not presently be punished: for if the man were a fool or a light person, the thing was to be despised; if he were a madman, he was to be pitied; if injurious or angry, he might be forgiven:" but "ad nostram scientiam referatur, ut ex personis hominum dicta pensemus, et utrum prætermitti an exquiri debeant censeamus:" the princes would have it referred to their cognizance and judgment, whether such persons should be punished or no. (5.) Let there be no doubtful speeches in public sermons scattered amongst the people concerning princes, for they are public seditions, not sermons. (6.) When it is necessary, or when it is prudent, that private addresses to princes be with a sacerdotal freedom, let it be in cases of great crimes, and evidently proved and evidently vicious, neither derived from uncertain rumours of the people, nor from trifling suspicions, nor yet be in matters of secret concernment and undiscerned reason. A prince may be reproved for notorious adultery, or evident murder against the forms of law; but not so freely in the question of wars or judicature: for the bishop's private opinion may be warrant enough for him to speak it when he is required, but not to reprove a prince upon pretence of duty, and by a spiritual authority, when the matter of fact or the question of right is uncertain.

RULE VIII.

Ecclesiastical Censures are to be inflicted by the Consent and Concurrence of the supreme civil Power.

1. By ecclesiastical censures I mean, the greater and lesser excommunication. This is a separation of a criminal (who is

[a] Tit. C. Si quis Imper. Maled.

delated and convict by witnesses, or by confession voluntary) from the peace and communion of the church, till he hath, by exterior signs, signified his internal repentance: this is called the lesser excommunication. The greater, is only of refractory and desperate persons, who will be subject to no discipline, make no amends, return to no goodness, and forsake no sin. These the church throws out from her bosom, and shakes the fire from her lap, and quits herself of the plague: and this is called the greater excommunication, or the anathema. Both these are bound by the ecclesiastical power: but the first is bound, that he may be purged of his sins; the second, that the church may be purged of him. The first is bound, as a man is tied fast that he may be cut of the stone; the other is bound as a criminal, that is going to execution: he is bound, that he may be thrown into outer darkness. Not that the church hath power to damn any man; but when she observes a man confirmed in impiety, she does antedate the divine judgment, and secures the sound members, and tells what will befal him in the day of judgment. In the first case, the penitent is like a wandering sheep; in the second, he is turned a goat or a wolf; and by their own acts also, as well as by the power of the keys, they are both bound: the first consents to the medicine, and the reprobate hath, by his own act, incurred that death, which the church declares; and both are acts of discipline, and directly or indirectly consequent to that power, which Christ hath given to his church, of binding and loosing, and to the charge of the conduct of souls.

2. These two are, by the fifth Roman synod under Symmachus, distinguished by the names of 'excommunication' (meaning the lesser) and 'anathema.' "He that breaks the decrees of this synod, let him be deprived of the communion: but if he will not amend, 'anathemate feriatur,' let him be anathema." The same we find in the synod of Turon[e], which commands that all the curses of the 108th (alias 109th) psalm, be cast upon church-robbers, "ut non solum excommunicati, sed etiam anathematizati moriantur;" "that they may die not only excommunicate, but anathematized."— "They which are never to be restored to the communion, but are to be accursed;" so Agapetus expresses it in his sixth epistle. This is called 'eradication;' while the lesser

[e] Cap. 25.

excommunicates are still members of the church, as St. Austin notes [f].

3. There is yet a third sort of excommunication, brought in by zeal and partiality, a willingness to rule or to prevail; which is no part of the power given by Christ, but taken up as it happened; it is no part of jurisdiction so much as improper, not an act of the power of the keys: and that is a refusing to communicate with him, who is not excommunicate, a punishing one whom we have no power to punish, a doing that which we have no power to do at all, or to such a person over whom confessedly we have no authority or jurisdiction. For when this humour was got into the manners and customs of the church, they made a new distinction; and there was a 'communio cum fratribus,' and a 'communio cum omnibus Christianis.' He that might communicate with the people, might not, in some cases, communicate with the priests and bishops his brethren. The distinction we find in the forty-fifth chapter of the council of Auxerre; and in pursuance of it, we find one bishop refusing to communicate with another. Thus if a bishop came not to the synod of his province, it was decreed in the fifth council of Carthage [g], "ut ecclesiæ suæ communione debeat esse contentus," "that he should only communicate with his own diocess." The like to which we find in the second council of Arles [h], in the council of Tarracon [i], and the council of Agatho [k]. Thus Epiphanius, bishop and metropolitan of Cyrus, refused to communicate with the bishop of Jerusalem, who was not his suffragan [l].

4. Concerning which way of proceeding;—1. It is evident, that there is no authority in it, or any thing that is like to jurisdiction; and,—2. Sometimes there may be duty, but,—3. Most commonly there is danger. (1.) There is evidently no authority: for if the authority were competent, and the cause just, they might proceed to excommunication. But this was sometimes done by equals to equals, as by bishop to bishop, by church to church, as by Victor to the churches of Asia, by Stephen to the churches of Africa, and by angry or zealous bishops to them, that were not of their humour or opi-

[f] Hom. 50. in Psal. ci. [g] Can. 10. [h] Can. 19.
[i] Can. 6. [k] Cap. 35.
[l] Vide distinct. 18. cap. Placuit. &c. si quis autem, et cap. Si quis Episcopus.

nion. Sometimes it was done by inferiors to their superior, the people withdrawing themselves from their pastor; so the Samosatenians refused to communicate with their bishop, that was thrust upon them after the expulsion of Eusebius. So that evidently, in this matter, there is no authority to verify it.

5. (2.) Sometimes there may be duty: as if a bishop be a heretic or an open vicious person, his brother that is a bishop, may use that liberty to him, as the people might do to a brother that walks disorderly; that is, withdraw from his society, that he may be ashamed: and if his communicating with him will give countenance to his heresy, or offence to his people, he is bound then to abstain and to refuse it: and so are the people tied not to communicate with their priest or bishop, if the condition of his communion be a sin, or the countenancing of a sin. And thus we find in the annals of Spain, that a daughter of an Arian king of Spain suffered death rather than receive the communion from the hands of an Arian bishop. In her case her refusal was duty, and her suffering was martyrdom; because her father imposed his command of communicating with the heretical bishop, as a secret allowance of the heresy, which, in that case, she was to refuse, and obey God unto the death.

6. But when this does accidentally become a matter of duty, the charity of our communion is no further to be refused than we are obliged by our duty; we are not to refuse it to that person, but for that cause; and therefore, in other cases, and upon all other accounts, we are tied to do the charity of Christians. I will not communicate with a Roman priest in his worship of images, or in his manner of praying for the dead, or invocation of saints; but I may not refuse to say the Lord's prayer and the 'Credo' with him, unless, by chance, it give an offence to some weak uninstructed person. I will not receive the communion from the hands of him, who was ordained by a presbytery without a bishop; because his hand is a dead hand, and reaches me nothing: but because he is my brother, I will not refuse to give him the communion, if he will require it at my hand, which was made sacred by the Holy Ghost, invocated by the prayer and the lifting up of the bishop's hand. I will not come to their communions: but if they would use good forms of liturgy,

and preach well, I would not refuse to communicate in such assemblies: unless, as I said before, I be accidentally hindered by some other duty drawing me off awhile.

7. But then, (3.) When it is not an express and a clear duty, it is always a great danger, an occasion of schisms and divisions in the church, and consequently may be an infinite breach of duty, a certain violation of one virtue, for the uncertain preservation of another: it is commonly the daughter of spiritual pride, an accounting of ourselves more holy than our brethren, whom, by such means, we oftentimes provoke to jealousies and indignation; and so sometimes altars are erected against altars, and pulpits turn to cockpits, and seats of scorners and of proud and illiterate declamations. Upon this account Christendom hath bled for many ages. The division of the east from the western churches,—and in the west, the division of Rome from divers churches, the Protestants and Reformed, came in at this door; while one church either pretends the singularity of truth, or the eminency of authority over other churches: by which two things the church of Rome hath been author of the permanent and greatest schisms of Christendom. For indeed, little better can be expected, when the keys of the church, which were given for the letting in or shutting out of single criminals or penitents respectively, are used to oppose multitudes. A man may lock his chamber-door, but he cannot put a lock upon the ocean: and it was wisely said of St. Austin[m], that "to excommunicate a single person cannot make a schism, unless the multitude favour him:" intimating, that a multitude is a dangerous thing to be involved in censures. 'The king nor the people are not to be excommunicated,' is an old rule. For if the whole multitude be excommunicate, with whom shall we communicate? If great parts of them be, they plainly make a schism, if they unwillingly suffer the censure: and therefore that one church should do this to another, is very hardly possible to be done with wisdom, or charity, or necessity. For when St. Paul bade his flock to abstain from the society of fornicators, he told them he meant it only in the numbers of the brethren, where, it may be, one or two in a diocess, or city, of that religion, might be criminal; for he would not have them to 'go out of the world' to keep that

[m] Contr. Epist. Parmen. lib. 3. cap. 2.

canon; and therefore meant not to involve the multitudes of fornicators, which were in the world. But now he that excommunicates a church, either does nothing at all, or he obliges every one in that church, to separate from that multitude: and then if he must not go out of the world, he must go out of that country, which no spiritual power can command, and which the Apostle never did intend, as appears in his caution and the whole economy and reason of that canon.

8. But I am to add this also, that there is scarce any case practicable, in which, if it be indifferently permitted to the people to separate from the communion of their superior, it will not very quickly proceed to mischief, and become intolerable; a remedy worse than the disease. When Nestorius[n] had preached these words, "Whoever shall say that the Virgin Mary is the mother of God, let him be accursed," the people had reason to be offended; but they did ill, when they made a tumult: for when the people are stirred, zeal is the worst thing about them. Thus when the two deacons of Pope Vigilius were displeased with their bishop in the cause of the three articles, which the Pope had condemned in the fifth general council, they very pertly withdrew themselves from his communion; and the effect of it was, that almost all the Roman church, and divers other western churches, did so: and so did the people of Istria to their bishops in the same cause, and so did many more: and the evil grew so great, when every one would, as he pleased, withdraw himself from the communion of their bishop or priest, that it was, under great penalty, forbidden by the eighth synod, the tenth chapter[o].

9. But this may be done in these following cases:—

(1.) When the superior hath manifestly erred in faith, that is, in an article of his creed, or a plain proposition of Scripture, in an article established or declared by that authority which hath bound him and them equally, and in which they conceive no error. Thus the priests and people of Constantinople[p] withdrew themselves from the communion of Eunomius, because he erred in an article determined by the whole church, and established by the laws of emperors, and, as they believed, clearly declared in Scripture. But when Plato the monk withdrew

[n] S. Cyril. ep. 18. ad Cælestinum.
[o] Paulus Diacon. de gest. Longob. lib. 3. cap. 12. [p] Theodoret. lib. 4. cap. 14.

himself from the communion of Tirasius the patriarch of Constantinople, because he refused to excommunicate the emperor, it was an insolence fit to be chastised by the rod of ecclesiastical discipline [q].

10. (2.) Priests may withdraw themselves from the communion of their bishop, and people from the communion of their priests, in things declared by laws to be against the peace of God and the church, when the fact is evident and notorious. But this is not to be done by single persons, but by the whole community: and the reason is, because the fact is not evident, or not scandalous to that degree as to deserve this canonical punishment, unless the congregation be offended, or the congregation note it; for though the bishop be more public than any single person, yet he is not more public or of more concernment than all his diocess. These particulars, that is, this leave and this caution, I have from Origen [r], explicating in what sense we are bound to cut off our right hand: "Ego qui videor tibi manus esse dextra, et presbyter nominor, et verbum Dei videor prædicare, si aliquid contra ecclesiasticam disciplinam et evangelii regulam gessero, ita ut scandalum toti ecclesiæ faciam, in uno consensu ecclesia conspirans excidat me dextram suam, et projiciat à se;" "If I, that am thy hand, and preach the word of God, do any thing against the discipline of God's church, and the rule of the gospel, so that I give offence to the whole church, let the whole church, consenting together, cut me off and throw me away."

11. (3.) But all this is to be understood to be done by permission or authority of the prince, in case he shall interpose; because where public divisions and breach of peace are in agitation, the commonwealth is more concerned oftentimes than religion; and therefore where the laws of God do not intervene, the laws of the king must, or the whole separation is a sin. And therefore we find, that when Gregory I. bishop of Rome, had thus refused to communicate with John bishop of Constantinople, he was commanded by the emperor Mauritius to communicate with him. And it is very fit, that such heats and private judgments, and zealous, but unnecessary, proceedings should be kept from inconveniences by such public persons, who are to take care of peace

[q] Baron. A. D. 795. [r] In Josu. hom. 7.

and of the public. For if such separations be not necessary, they are not lawful; and if they be not the only way to avoid a sin, they are a ready way to commit one. For because every man's cause is right in his own eyes, when such heats as these happen between confident persons, every man is judge in his own cause; and what is like to be the event of such things, all the world can easily imagine.

12. But now concerning those other two proper kinds of excommunication, the greater and the lesser, they have the same consideration, if we mean them, according as the church now uses them; that is, if they be imposed upon men against their will. For as for the lesser excommunication, so as it was used in the primitive church, and so as the church of England wishes it were now restored, when penitents came and submitted themselves to the discipline of the church, and had exercises, stations, and penitential times, allotted to them, and were afterward with joy and comfort restored to the peace of the church, it is a ministry done by consent, and without any evil, and no man hath to do with it. But if the consent of the criminal be not in it, the bishop cannot compel him; but the bishop and the king can. And therefore we find, that the emperors made laws in this very particular; and Justinian[a] commanded, that no ecclesiastic person should excommunicate any one, unless the cause were first approved. Which law was commended by the council of Paris under Ludovicus; and by John VIII. who, upon the authority of that law, inhibited some bishops from excommunicating one Bichertinus.

13. By this I do not mean to say, that the ecclesiastical judge hath not power to deny a criminal the peace and communion of the church, by declaring him to be unworthy to communicate; but because as the laws and as the customs of the world are now, there is disgrace, and there is temporal evil consequent to such ecclesiastical separations, the bishop can be restrained in the actual exercise of his spiritual authority, if there be any thing in it of temporal concernment.

14. And therefore if the bishop did excommunicate any of the prince's servants, or any whom the prince had a mind to excommunicate and convene withal, the censure was to be reversed; "ut quod principalis pietas recipit, nec à sa-

[a] 123d novel.

cerdotibus Dei alienum habeatur," as the fathers of the twelfth council of Toledo[t] did decree; that "what the piety of the prince does receive, the bishops may not reject." For to avoid the company of any person is an effect of excommunication indeed, but not inseparable: and because to converse with any of his subjects is a right of kings, that none of his bishops can divest him of, the bishop can excommunicate no man without the king's leave; that is, he cannot separate him from the society of the faithful. And therefore Ivo[u] bishop of Chartres, justified himself upon this account for conversing with one Gervasius that was excommunicate: "Pro regia enim honorificentia hoc feci, fretus auctoritate legis, si quos culpatorum," &c. "I did it (saith he) relying upon the authority of the law, and for the honourable regard of the king."—And this he advises to others also, in his one hundred and seventy-first epistle; and St. Anselm, though he was extremely troubled with the Pope's peevish injunction against the King of England's right in the matter of investitures, yet in his epistle to Prior Ernulph he gives leave, that though he durst not, by reason of the Pope's personal command to the contrary, yet they might communicate with those whom the Pope had excommunicated for receiving investitures from the king. Now although this appendage of excommunication, that is, abstention from the civil society of the criminal, is wholly subject to the laws and power of princes; yet the spiritual part of the excommunication, that is, a separation from the communion by declaring such a person to be unworthy, and using to him the word of his proper ministry, is so wholly under the power of the ecclesiastic order, that when the king commands that the company of the excommunicate should not be avoided, yet the man is not absolved from his sentence in the court of conscience, but is bound to satisfy the church, if she have proceeded legally and canonically. The king can take off the temporal penalty, but not the spiritual obligation; that is, the man is not to demand the sacrament, till he be absolved. If the king commands it, the bishop must not deny his external ministry: but the man sins that demands it, because he communicates unworthily, that is, by a just power, but not by a just disposition. He must repent of his crime, before he can come innocently.

[t] Cap. 3. [u] Epist. 62.

15. For it is to be observed, that, in this affair, one part concerns the criminal, and another concerns the people. The criminal is bound to abstain from the communion: that duty is incumbent upon him, because he is judged to be unworthy of it by that authority which he is bound to trust, in case there be no apparent error. But to be thrust from civil society is not directly any duty of his, but is incumbent on the people. Now though the bishop can, in some cases, advise this, yet in a Christian commonwealth, he cannot, without leave, command it: and therefore the censure or judgment of the church is to have effort upon the conscience of the guilty, and this invades no man's right; it is for his good that is concerned, and is wholly a spiritual power, and intrenches not upon the civil right of any man, much less upon the public and supreme power. In the lesser excommunication, if the subjects be not voluntary, or be not subjected by him that hath the power over them, that is, the king, they cannot be compelled by the bishop to any external act or abstention. But if they do themselves *submit*, or are submitted by their supreme, they are bound not only to obey the censure of the church, but themselves to go away from company, that know not of this calamity: as I have[1] already instanced.

16. The sentence of the greater excommunication, though to be estimated in many particulars by the former measures, yet hath in it something of particular consideration. This is the great 'anathema maranatha,' the excision of a man from the body of the church; without which body, whosoever is in that manner justly separate, there is no salvation to him: and this the church called by the name of 'anathema.' Not that whenever the word 'anathema' is used, the greater excommunication is signified; for it is very often used as an earnest expression of the dislike of a thing: so the clergy of Edessa, when they purged their bishop Ibas of the crimes objected to him in the council of Chalcedon[y], they solemnly protested they knew no evil of him, "anathematizantes nosmetipsos, et terribili gehennæ nosmetipsos obnoxios facientes, si novimus;" "anathematizing themselves and exposing themselves to the guilt of eternal damnation, if they knew any such thing." Such anathemata are

[x] Chap. 2. rule 2. num. 15. [y] Act. 10.

denounced against sacrilegious persons in the donatives made to the church; and thus divers councils do pronounce 'anathema' to false propositions, and Justinian [a], in the code, uses the same execration against certain heresies. Now to such an anathema as this all persons can be subject, kings and princes, bishops and priests, multitudes and single persons. There is nothing considerable in this, but that the cause be great and worthy: for whoever he be that works abomination, let him be who he will, yet he is 'abominable;' and shall be separated from the communion of saints, in the day of the New Jerusalem.

17. But the inquiry that remains, is concerning the great anathema or excision of obstinate criminals from the body of the church, which is the only excommunication, that Christ gave in commission and warranty. For so the fathers expound those words of Christ; "But if he will not hear the church, let him be unto thee as a heathen and a publican;" —that is, not to be esteemed for a brother or a Christian, saith St. Gregory [a];—"quia neque influxum habet à capite, neque participat de spiritu Christi," saith St Austin [b]: "he neither hath any influence from the head, nor partakes of the spirit of Christ." This man the church does not pray for, does not pray with, does not communicate, does not hope well of; he receives no assistance and gifts of grace from the Holy Spirit of God: and St. Jude says, his works are "gone aforehand unto judgment."—"Videlicet peccator gravis et scandalosus, notorius, aut accusatus et convictus, 'He who is a grievous and a scandalous sinner, notorious or convict,' being reproved by the bishop in the public assemblies of the church,—if he will not be humbled, but remains incorrigible, and perseveres in his scandalous sins, 'tum anathemate feriendus est, et à corpore ecclesiæ separandus,' 'then he is to be smitten with the anathema, and to be separated from the body of the church [c];'" so St. Gregory [c]. To this there is nothing else consequent, but that the man, unless he timely and mightily repent, will be damned; and in the meantime that every man account him to be no brother, and have no intercourse with him, but as with a Turk or a Jew.

18. Now concerning this, he that is in ecclesiastical

[a] Cod. de Summa Trinit. lib. 7.
[b] Tract. 27. in Johan.
[a] In Psal. v. Pœnit. Init.
[c] Ubi suprà.

authority, and hath received the holy order, hath this power; and he that hath a charge, can minister this power: and so long as nothing temporal and secular is mingled with it, the bishop can do it wholly by his spiritual authority; and in this he does nothing depend upon the supreme civil power; save that he be permitted to exercise his spiritual office. For though it be true that any bishop can, by the civil power, be hindered from ministering in public assemblies, for he may be banished or deposed, and another put in his chair, or all his offices may be suspended 'quoad exercitium actus,' as the schools speak, so that he may not exercise his power; yet a bishop that hath a flock, that is permitted actually to do what Christ hath empowered him to do, can, by his own sole authority, inflict this sentence upon scandalous and refractory, disobedient and impenitent, rebellious and persevering, sinners: and if the church could not do this, she had not power sufficient to the ends of her designation; she were no body politic, but without government and power; and all that discourse of our blessed Saviour in the eighteenth of St. Matthew [d], and his commands of delating refractory criminals to the church, and the promise to 'verify in heaven what they shall reject on earth,' were words signifying nothing and of no effect. But because no wise man will imagine, that it must follow that the ecclesiastic state, they to whom Christ promised to give the keys of the kingdom of heaven, they who are stewards of the household and dispensers of the mysteries of the gospel,—have this power subjected in themselves independently from the civil power, as they have a power to baptize, and to consecrate, and to ordain ministers of religion; and they can no more be hindered from one than from the other; they may 'de facto,' and they may by a competent power; but if they be, it is persecution. That this bishop or that, that Cyprian or Sylvester, that Valerius or Austin, should be the man, is under the power of a civil magistrate; but the man that is permitted to use the powers Christ put into his hand, can, upon persons so disposed, pronounce God's anathema and the church's.

19. Now the reason of the difference, why the bishop cannot do this in the lesser excommunication, and yet can

[d] Matt. xviii. 16—18.

in the greater,—is this; because the greater is of divine institution, and the other is of human, never used but by consent, or by superinduced civil authority, and therefore must still depend upon the causes of its being. Add to this, there is a precept annexed to this power: there is a double duty; the bishop is to separate the vile from the precious, the leprous from the sound, and the people are to take heed of such impure mixtures. But, in the lesser excommunications, there may possibly be something of prudence; yet as there is no proper authority in the ecclesiastical superior, but what is given him by consent, so there is no obligation or duty in the subjects: it is well when they submit to this discipline, and go to be cured by the public hands even for every malady; but they are not bound to this: but if they be delated or be notorious and great criminals, here the church is warranted by God to proceed to discipline, and to separation and excision of the refractory. This only hath effort upon the soul; but the lesser excommunication is a discipline of ecclesiastical institution; and so is that 'denying of communion to equals or superiors,' and so is 'irregularity,' and so is 'refusing to mention a name in our collects and public or private prayers,' and so is 'suspension and interdict, degradation and deposition:' they are all of ecclesiastical positive constitution, no part of the power of the keys, nothing of divine authority; but are introduced by the consent of churches, and verified by custom, consent, and the laws of princes, and so come accidentally to pass an obligation, but effect nothing directly upon the soul. That is a peculiarity of the greater excommunication: and that which stands next to it is the lesser excommunication; which although it be 'humanum inventum,' and of positive institution, yet because it is a part of the greater, and proceeds in the same way, upon lesser causes, but to designs of charity and edification, it is a use of the spiritual sword, it is the lancing of a sore, but not the cutting off a dead part; but it may be admitted to be a consequent of the power of binding or loosing, and so I have already called it*. For it is a part of that intermedial monition, which Christ hath, in general, commissionated his ministers and guides of the church to make. If an offender will not mend by private, and by a more public admonition,

* Numb. 1. of this rule.

"tell it to the church;" then the church is to do something, when the stubborn criminal is delated to her. The church must try, if he will repent upon her monition; for then the ecclesiastical rulers are to exhort him unto repentance, to reprove, to correct, to do what spiritual fathers ought to do: the particulars of which, because they are not specified by our blessed Lord, they are left to the prudence of the ecclesiastical governors; so that the general discipline is warranted, but the particular is left to their choice, who, by the analogies of the consequent power of the keys, can proceed by lesser and an intermedial process. But the power of keys is given in order to something, that is to be done afterward. For that is only the warranted and express authority, and that which imitates coercitive jurisdiction the nearest, that those be cut off from the church, who, by their voluntary submission, will not amend, and submit to the paternal rod and gentle correption.

END OF THE THIRTEENTH VOLUME.

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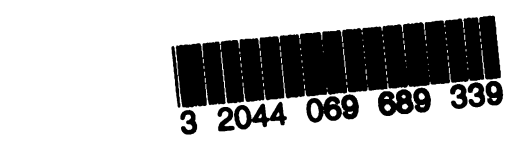
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